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FEDERAL TRADE COMMISSION

16 CFR Part 310

RIN 3084–AA98

Telemarketing Sales Rule Fees

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission (''Commission'') is amending its Telemarketing Sales Rule (''TSR'') by updating the fees charged to entities accessing the National Do Not Call Registry (''Registry'') as required by the Do-Not-Call Registry Fee Extension Act of 2007.

DATES: This rule is effective October 1, 2024.

ADDRESSES: Copies of this document are available on the internet at the Commission's website: *https://www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Ami Joy Dziekan, (202) 326–2648, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: To comply with the Do-Not-Call Registry Fee Extension Act of 2007 (Pub. L. 110–188, 122 Stat. 635, codified at 15 U.S.C. 6152) (''Act''), the Commission is amending the TSR, which is contained in 16 CFR part 310, by updating the fees entities are charged for accessing the Registry. Specifically, the revised rule increases (1) the annual fee for access to the Registry for each area code of data from $78 to $80 per area code, and (2) the maximum amount that will be charged to any single entity for accessing area codes of data from $21,402 to $22,038. Entities may add area codes during the second six months of their annual subscription period, and the fee for those additional area codes increases from $39 to $40.

These increases are in accordance with the Act, which specifies that beginning after fiscal year 2009, the dollar amounts charged shall be increased by an amount equal to the amounts specified in the Act, multiplied by the percentage (if any) by which the average of the monthly consumer price index (for all urban consumers published by the Department of Labor) (''CPI'') for the most recently ended 12-month period ending on June 30 exceeds the CPI for the 12-month period ending June 30, 2008. The Act also states that any increase shall be rounded to the nearest dollar and that there shall be no increase in the dollar amounts if the change in the CPI since the last fee increase is less than one percent. For fiscal year 2009, the Act specified that the original annual fee for access to the Registry for each area code of data was $54 per area code, or $27 per area code of data during the second six months of an entity's annual subscription period, and that the maximum amount that would be charged to any single entity for accessing area codes of data would be $14,850.

The determination of whether a fee change is required and the amount of the fee changes involves a two-step process. First, to determine whether a fee change is required, we measure the change in the CPI from the time of the previous increase in fees. There was an increase in the fees for fiscal year 2024. Accordingly, we calculated the change in the CPI since last year, and the increase was 3.0 percent. Because this change is over the one percent threshold, the fees will change for fiscal year 2025.

Second, to determine how much the fees should increase this fiscal year, we use the calculation specified by the Act set forth above: the percentage change in the baseline CPI applied to the original fees for fiscal year 2009. The average value of the CPI for July 1, 2007, to June 30, 2008, was 211.702; the average value for July 1, 2023, to June 30, 2024, was 314.145, an increase of 48.40 percent. Applying the 48.40 percent increase to the base amount from fiscal year 2009, leads to a $80 fee for access to a single area code of data for a full year for fiscal year 2025, an increase of $2 from last year. The actual amount is $80.14 but when rounded, pursuant to the Act, $80 is the appropriate fee. The fee for accessing an additional area code for a half year increases by one dollar to $40 (rounded from $40.07. The maximum amount charged increases to $22,038 (rounded from $22,038.05).

Administrative Procedure Act; Regulatory Flexibility Act; Paperwork Reduction Act

Under the Administrative Procedure Act (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. The fee adjustments set forth in this final rule are mandated by the Do-Not-Call Registry Fee Extension Act of 2007. Accordingly, the amendments to the TSR are merely technical in nature, making notice and comment unnecessary and contrary to the public interest. *See* 5 U.S.C. 553(b). For this reason, the requirements of the Regulatory Flexibility Act also do not apply. *See* 5 U.S.C. 603, 604.

Pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501–3521, the Office of Management and Budget (''OMB'') approved the information collection requirements in the TSR and assigned the following existing OMB Control Number: 3084–0169. The amendments outlined in this final rule pertain only to the fee provision (§ 310.8) of the TSR and will not establish or alter any record keeping, reporting, or third-party disclosure requirements elsewhere in the TSR.

List of Subjects in 16 CFR Part 310

Advertising, Consumer protection, Reporting and recordkeeping requirements, Telephone, Trade practices.

Accordingly, the Federal Trade Commission amends part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108.

§ 310.8 [Amended]

■ 2. In § 310.8:
■ a. Revise paragraph (c) by:
■ i. Removing ''$78'' and adding ''$80'' in its place; and
■ ii. Removing ''$21,402'' and adding ''$22,038'' in its place;
■ b. Revise paragraph (d) by:

■ i. Removing ''$78'' and adding ''$80'' in its place; and
■ ii. Removing ''$39'' and adding ''$40'' in its place.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2024–19431 Filed 8–28–24; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 803

[Docket No. FDA–2017–N–6730]

Medical Devices and Device-Led Combination Products; Voluntary Malfunction Summary Reporting for Manufacturers

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Notification; order granting modification to alternative.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing a minor, technical modification to an alternative that permits manufacturer reporting of certain device malfunction medical device reports (MDRs) in summary form on a quarterly basis. We refer to this alternative as the ''Voluntary Malfunction Summary Reporting Program.''

DATES: This modification applies to voluntary summary reports for reportable malfunction events that manufacturers become aware of on or after August 29, 2024.

FOR FURTHER INFORMATION CONTACT: Michelle Rios, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1116, Silver Spring, MD 20993–0002, 301–796–6107; or James Myers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Every year, FDA receives over two million MDRs of suspected device-associated deaths, serious injuries, and malfunctions. The Agency's MDR program is one of the postmarket surveillance tools FDA uses to monitor device performance, detect potential device-related safety issues, and contribute to benefit-risk assessments. Malfunction reports represent most of the MDRs FDA receives on an annual basis.

Medical device reporting requirements for manufacturers are set forth in section 519 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360i) and the regulations contained in part 803 (21 CFR part 803). Among other things, part 803 requires the submission of an individual MDR when a manufacturer becomes aware of information, from any source, that reasonably suggests that one of its marketed devices malfunctioned and the malfunction of the device or a similar device marketed by the manufacturer would be likely to cause or contribute to a death or serious injury if the malfunction were to recur (§§ 803.10(c)(1) and 803.50(a)(2)). Throughout this document, we refer to such malfunctions as ''reportable malfunctions'' or ''reportable malfunction events.''

Under § 803.19, FDA may grant exemptions or variances from, or alternatives to, any or all of the reporting requirements in part 803, and may change the frequency of reporting to quarterly, semiannually, annually, or other appropriate time period. FDA may grant such modifications upon request or at its discretion, and when granting such modifications, FDA may impose other reporting requirements to ensure the protection of the public health (see § 803.19(c)).

In accordance with section 519(a)(1)(B)(i) of the FD&C Act and § 803.19, FDA granted to manufacturers of devices in eligible product codes, as identified in the FDA Product Classification Database (*https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPCD/classification.cfm*) on August 17, 2018, an alternative that permits submission of malfunction summary reports on a quarterly basis for certain device malfunctions. The Agency published a document of the alternative in the **Federal Register** (83 FR 40973, August 17, 2018). Consistent with that document, FDA subsequently determined that additional product codes are eligible for the Voluntary Malfunction Summary Reporting Program (the program) and granted the same alternative to manufacturers of devices in those product codes.

FDA believes that for the devices in eligible product codes, quarterly, summary reporting in accordance with the conditions of the alternative is as effective as the current MDR regulatory requirements for purposes of identifying and monitoring potential device safety concerns and device malfunctions. The program allows manufacturers to submit summary reports with event narratives that help FDA more efficiently process malfunction reports and identify malfunction trends. In addition, FDA's determination of product code eligibility and the conditions of participation in the program serve to require submission of individual 30-day or 5-day malfunction reports in circumstances where such reports are necessary to protect public health.

II. Modification to Malfunction Summary Reporting Format for the Voluntary Malfunction Summary Reporting Program

Under § 803.19(d), FDA ''may revoke or modify in writing an exemption, variance, or alternative reporting requirement if we determine that revocation or modification is necessary to protect the public health.''

To meet the conditions of the Voluntary Malfunction Summary Reporting Program (VMSR), manufacturers of devices in eligible product codes who elect to participate in the program must submit summary malfunction reports electronically using Form FDA 3500A (Ref. 1) pursuant to the malfunction reporting summary format described in the document published in 2018 (83 FR 40973, August 17, 2018). However, since the program began in 2018, FDA has revised Form FDA 3500A. For example, FDA has added a ''check box'' and field in which the manufacturer may specifically indicate that a report is a ''summary report'' and enter the number of events being summarized. Additionally, FDA has added a field that facilitates clearer identification of a report as a VMSR summary reports. Use of these features of the revised Form 3500A allows FDA to more efficiently identify VMSR summary reports and the number of events summarized, enabling more effective review of these reports. Certain fields in the Form FDA 3500A have also changed so that they no longer align exactly with the instructions describing the required malfunction reporting summary format for the program. In addition, FDA's MDR references for adverse event codes have been updated.

Revising the required format for summary malfunction reports submitted under the VMSR Program to align with the most current Form FDA 3500A and adverse event codes will avoid confusion and help ensure the accuracy and consistency of information in summary malfunction reports. Consistent, accurate summary reports are necessary to ensure that both FDA

and the public are able to find information about device malfunctions and identify malfunction trends more readily. Therefore, we have determined that modifying the malfunction reporting summary format under § 803.19(d) to align with the revised Form FDA 3500A and updated references for MDR adverse event codes is necessary to protect the public health. Specifically, we are making the following changes:

- Use of dedicated fields to identify the report as a VMSR summary malfunction report. Instead of using XML tags ''<NOE> XXX <NOE>'' in the ''Describe Event or Problem'' section of Form FDA 3500A, manufacturers must use the following fields:
  - In the ''Exemption/Variance Number'' field, include the term ''VMSR.''
  - In the ''Type of Reportable Event'' section of the Form FDA 3500A, check the ''Summary Report'' box and identify the number of events in the ''Number of Events Summarized'' field.
- Update the adverse events code references, from Method, Results and Conclusions to ''Type of Investigation'', ''Investigation Findings'', and ''Investigation Conclusions''.
- Remove references to the specific number identifiers for the Form FDA 3500A sections from the description of the malfunction summary reporting format and individual reporting conditions (as applicable) to remove inconsistency with the current version of the Form FDA 3500A. The sections are instead identified only by description name.

III. Voluntary Malfunction Summary Reporting Program

FDA is republishing the conditions that manufacturers must follow if they choose to participate in the Voluntary Malfunction Summary Reporting Program with the changes described in section II of this document incorporated, along with a few editorial changes for clarity. Under § 803.19, FDA has granted the manufacturers of devices within eligible product codes, as identified in FDA's Product Classification Database (*https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPCD/classification.cfm*), an alternative to the reporting requirements at §§ 803.10(c)(1), 803.20(b)(3)(ii), 803.50(a)(2), 803.52, and 803.56 with respect to reportable malfunction events associated with those devices. The alternative permits manufacturers of devices within eligible product codes to submit malfunction reports in summary format on a quarterly basis for those devices, subject to the conditions of the alternative described in the remainder of this section. Such manufacturers ''self-elect'' to participate by submitting summary malfunction reports in accordance with the conditions of the alternative. They do not need to submit a separate application to FDA to participate.[1] The remainder of this section describes the following conditions that manufacturers must follow if they choose to submit summary malfunction reports for devices within eligible product codes under the alternative: (1) the conditions under which individual malfunction reports are required; (2) submission of supplemental reports; (3) the revised format for summary malfunction reports; (4) considerations for combination products; and (5) the schedule and other logistics for submission of summary reports. Because this is an alternative, if a manufacturer does not submit summary reports for reportable malfunction events in accordance with the conditions described in this section, including the reporting schedule and format, then the manufacturer must submit individual malfunction reports in compliance with all requirements under part 803 (unless the manufacturer has been granted a different exemption, variance, or alternative that applies).

A. Events Outside the Scope of This Alternative

The Voluntary Malfunction Summary Reporting Program does not apply to reportable death or serious injury events, which are still required to be reported to FDA within the mandatory 30-calendar-day timeframe, under §§ 803.50 and 803.52, or within the 5-work day timeframe under § 803.53. Thus, if a manufacturer participating in the program becomes aware of information reasonably suggesting that a device that it markets may have caused or contributed to a death or serious injury, then the manufacturer must submit an individual MDR for that event because it involves a reportable death or serious injury.

The reporting requirements at § 803.53 also continue to apply to manufacturers participating in the program. Under § 803.53(a), a 5-day report must be filed if a manufacturer becomes aware of an MDR reportable event that necessitates remedial action to prevent an unreasonable risk of substantial harm to the public health. Further, under § 803.53(b), if FDA has made a written request for the submission of a 5-day report, the manufacturer must submit, without further requests, a 5-day report for all subsequent reportable malfunctions of the same nature that involve substantially similar devices for the time period specified in the written request. FDA may extend the time period stated in the original written request if the Agency determines it is in the interest of the public health (see § 803.53(b)).

B. Individual Reporting Conditions

Manufacturers of devices in eligible product codes may continue submitting individual, 30-day malfunction reports in compliance with §§ 803.50 and 803.52 if they choose to do so. However, those manufacturers may submit all reportable malfunction events for devices in eligible product codes in the summary format and according to the schedule described below in section III.D. and F, unless one of the following individual reporting conditions applies:

1. A Reportable Malfunction Is Associated With a 5-Day Report

After submitting a 5-day report required under § 803.53(a), all subsequent reportable malfunctions of the same nature that involve substantially similar devices must be submitted as individual MDRs in compliance with §§ 803.50 and 803.52 until the date that the remedial action has been terminated to FDA's satisfaction. Summary reporting of malfunctions may then resume on the regularly scheduled summary reporting cycle. Submission of reportable malfunctions associated with 5-day reports in this manner will assist FDA in monitoring the time course and resolution of the issue presenting an unreasonable risk of substantial harm to the public health.

2. A Reportable Malfunction Is the Subject of Certain Device Recalls

When a device is the subject of a recall involving the correction or removal of the device to address a malfunction and that correction or removal is required to be reported to FDA under part 806 (21 CFR part 806), all reportable malfunction events of the same nature that involve the same device or a similar device marketed by the manufacturer must be submitted as individual MDRs in accordance with §§ 803.50 and 803.52 until the date that the recall is terminated. As stated in 21 CFR 806.10(a), FDA regulations require

[1] We note that the Voluntary Malfunction Summary Reporting Program does not apply to importers or device user facilities. Therefore, requirements under 21 CFR part 803 for importers and device user facilities are unaffected by this alternative. For example, importers will continue to submit individual MDRs to the manufacturer under § 803.40.

that manufacturers submit a written report to FDA of any correction or removal of a device by the manufacturer if it was initiated to reduce a risk to health posed by the device; or to remedy a violation of the Act caused by the device which may present a risk to health unless the information has already been provided or the corrective or removal action is exempt from the reporting requirements under § 806.1(b). We note that under part 806, manufacturers and importers are not required to report a correction or removal that meets the definition of a class III recall under part 7 (21 CFR part 7). (See §§ 7.3(g) and (m), 806.2(d) and (j) through (k), and 806.10(a); see also 62 FR 27183 at 27184.) After the recall is terminated, summary reporting may resume on the regularly scheduled summary reporting cycle. The requirement to submit individual reports under this condition is triggered on the date that the manufacturer submits a report of a correction or removal required under part 806 (or the date that the manufacturer submits a report of the correction or removal under part 803 or 21 CFR part 1004 instead, as permitted under § 806.10(f)). This will allow FDA to monitor the frequency of reportable malfunctions associated with the recall and effectiveness of the recall strategy.

If a manufacturer becomes aware of reportable malfunction events before the date that the requirement to submit individual reports is triggered and a summary report for those events has not yet been submitted to FDA, then the manufacturer must submit any of those malfunction events related to the recall in a summary MDR format within 30-calendar days of submitting the required report of correction or removal. In the summary MDR, the manufacturer must indicate the check box of recall in the ''Remedial Action Initiated, Check Type'' in the electronic Form FDA 3500A.

3. FDA Has Determined That Individual MDR Reporting Is Necessary To Address a Public Health Issue

If FDA has determined that individual malfunction reports are necessary to provide additional information and more rapid reporting for an identified public health issue involving certain devices, manufacturers must submit reportable malfunction events for those devices as individual MDRs in compliance with §§ 803.50 and 803.52. Under these circumstances, FDA will provide written notification to manufacturers of relevant devices that individual MDR submissions are necessary. FDA will provide further written notification when manufacturers of those devices may resume participation in summary malfunction reporting.

The requirement to submit individual reports under this condition is triggered on the date the manufacturer receives the written notification from FDA. If a manufacturer became aware of reportable malfunction events before the date that the requirement to submit individual reports is triggered and a summary report for those events has not yet been submitted to FDA, then the manufacturer must submit any of those malfunction events for the identified devices to FDA within 30-calendar days of receiving notification from FDA.

4. FDA Has Determined That a Device Manufacturer May Not Report in Summary Reporting Format

FDA may determine that a specific manufacturer is no longer allowed to participate in the Voluntary Malfunction Summary Reporting Program for reasons including, but not limited to, failure to comply with applicable MDR requirements under part 803, failure to follow the conditions of the program, or the need to monitor a public health issue. In that case, FDA will provide written notification to the device manufacturer to submit individual malfunction reports in compliance with §§ 803.50 and 803.52. The requirement to submit individual reports under this condition is triggered on the date the manufacturer receives the written notification from FDA. If a manufacturer became aware of reportable malfunction events before the date that the requirement to submit individual reports is triggered under this condition and a summary report for those events has not yet been submitted to FDA, then the manufacturer must submit those malfunction events to FDA within 30-calendar days of receiving notification from FDA.

5. A New Type of Reportable Malfunction Occurs for a Device

If a manufacturer becomes aware of information reasonably suggesting a reportable malfunction event has occurred for a device that the manufacturer markets and the reportable malfunction is a new type of malfunction that the manufacturer has not previously reported to FDA for that device, then the manufacturer must submit an individual report for that reportable malfunction in compliance with §§ 803.50 and 803.52. After the manufacturer submits this initial individual report, subsequent malfunctions of this type may be submitted in summary form according to the reporting schedule in Table 1, unless another individual reporting condition applies.

C. Supplemental Reports

In general, if a manufacturer obtains information required in a malfunction summary report (see section III.D. describing the required content of a summary report), that the manufacturer did not provide because it was not known or was not available when the manufacturer submitted the initial summary malfunction report, the manufacturer must submit the supplemental information to FDA in an electronic format in accordance with § 803.12(a). The supplemental information must be submitted to FDA by the submission deadline described in the Summary Malfunction Reporting Schedule (Table 1), according to the date on which the manufacturer becomes aware of the supplemental information. Manufacturers must continue to follow the requirements for the content of supplemental reports set forth at § 803.56(a) through (c), meaning that on a supplemental or follow up report, the manufacturer must: (a) indicate that the report being submitted is a supplemental or follow up report; (b) submit the appropriate identification numbers of the report that you are updating with the supplemental information (*e.g.,* your original manufacturer report number and the user facility or importer report number of any report on which your report was based), if applicable; and (c) include only the new, changed, or corrected information.

However, if a manufacturer submits a summary malfunction report and subsequently becomes aware of information reasonably suggesting that an event (or events) summarized therein represents a reportable serious injury or death event, or a new type of reportable malfunction, then the manufacturer must submit reports as follows: The manufacturer must submit an initial, individual MDR for the identified serious injury, death, or new type of reportable malfunction event within 30-calendar days of becoming aware of the additional information. The manufacturer must simultaneously submit a supplement to the initial malfunction summary report reducing the number of events summarized accordingly, so that the total number of events remains the same.

D. Malfunction Reporting Summary Format

As discussed in section II, we are revising the malfunction summary reporting format to reflect updates to the

Form FDA 3500A (Ref. 1) and to FDA's references to MDR adverse event codes. While some aspects of the format in which manufacturers must submit their summary reports will change, the information required to be submitted by participating manufacturers will not.

Manufacturers of devices in eligible product codes who elect to participate in the Voluntary Malfunction Summary Reporting Program must submit summary malfunction reports in the format described below. FDA believes that submission of summary reports in the format described below will provide the most compact and efficient reporting mechanism for streamlining malfunction reporting that still provides sufficient detail for FDA to monitor devices effectively.

Separate summary malfunction reports must be submitted for each unique combination of brand name, device model, and MDR adverse event device problem code(s).

Each summary malfunction report must include at least the following information collected on Form FDA 3500A and must be submitted in an electronic format:

- Exemption/Variance Number—Type in ''VMSR''.
- Describe Event or Problem—The device event narrative must include a detailed description of the nature of the events and, if relevant and available, we recommend including a range of patient age and weight and a breakdown of patient gender, race, and ethnicity. Inclusion of patient age, weight, gender, race, and ethnicity is not a required entry for the form; however, FDA recommends including these descriptors in a text narrative if the information is available and if a malfunction is more likely to affect a specific group of patients.
- Brand Name—Include the device brand name.
- Common Device Name and Product Code—Include the common name of the device and its product code.
- Manufacturer Name, City, and State—Add the manufacturer's name and identify its location.
- Model Number and other device identifying information—Enter the device model and/or catalog number and lot number(s) and/or serial number(s) for the devices that are the subject of the MDR. Include any device identifier (DI) portion of the unique device identifier for the device version or model that is the subject of the MDR.
- Contact Office (and Manufacturing Site(s) for Devices)—Enter the name, address, and email of the manufacturer reporting site (contact office), including the contact name for the summary report being submitted. Enter the name and address of the manufacturing site(s) for the device, if different from the contact office.
- Phone Number of Contact Office—Include a phone number for the contact office.
- Combination Products (if applicable)—Check if the report involves a combination product.
- Type of Reportable Event—Check ''Malfunction.'' Manufacturers must check the ''Summary Report'' box and identify the number of events being summarized.
- Adverse Event Problem—Enter the corresponding codes, including as many codes as necessary to describe the event problem and evaluation for the reportable malfunction events that are being summarized:
  - ''Medical Device Problem Code''
  - ''Type of Investigation''
  - ''Investigation Findings''
  - ''Investigation Conclusions,'' even if the device was not evaluated.
- Additional Manufacturer Narrative—Provide a summary of the results of the investigation for the reported malfunctions, including any follow up actions taken, and any additional information that would be helpful in understanding how the manufacturer addressed the malfunction events summarized in the report. Enter a breakdown of the malfunction events summarized in the report: the number of devices that were returned, the number of devices that were labeled ''for single use'' (if any), and the number of devices that were reprocessed and reused (if any).

E. Combination Product Considerations

Device-led combination products are included in this alternative. The electronic Medical Device Reporting (eMDR) data system and instructions (Ref. 2) support use of the Voluntary Malfunction Summary Reporting Program for device-led combination products.

F. Submission Schedule and Logistics

Manufacturers submitting malfunction summary reports or supplemental reports to a malfunction summary report must use electronic reporting (Ref. 2) to submit those reports on a quarterly basis according to the schedule in Table 1. The summary malfunction report must include the MDR number, which consists of the registration number of the manufacturer, the year in which the event is being reported, and a 5-digit sequence number. Information included in a malfunction summary report must be current as of the last date of the quarterly timeframe identified in the first column of Table 1.

TABLE 1—SUMMARY MALFUNCTION REPORTING SCHEDULE

Reportable malfunctions or supplemental information that you become aware of during these timeframes:	Must be submitted to FDA by:
January 1–March 31	April 30.
April 1–June 30	July 31.
July 1–September 30	October 31.
October 1–December 31	January 31.

Under §§ 803.17 and 803.18, manufacturers are required to develop, maintain, and implement written MDR procedures and establish and maintain MDR event files, and those requirements remain applicable for manufacturers that elect to participate in this program. Among other things, a manufacturer must develop, maintain, and implement MDR procedures that provide for timely transmission of complete MDRs to FDA. (See § 803.17(a)(3).) Manufacturers participating in the Voluntary Malfunction Summary Reporting Program must update their internal MDR processes and procedures to provide for submitting summary malfunction reports within the Summary Malfunction Reporting Schedule.

IV. Program Implementation

The goal of the Voluntary Malfunction Summary Reporting Program is to permit manufacturers of devices under certain product codes to report malfunctions on a quarterly basis and in a summary format, as outlined in the Medical Device User Fee Agreement (MDUFA) IV Commitment Letter (Ref.

3), in a manner that provides for effective monitoring of devices and is beneficial for FDA, industry, and the public. An important part of this voluntary program is providing clarification to manufacturers regarding the product codes eligible for the program.

Consistent with the MDUFA IV Commitment Letter (Ref. 3), FDA has identified eligible product codes for the Voluntary Malfunction Summary Reporting Program in FDA's Product Classification Database, available on FDA's website *https://www.fda.gov/medical-devices/medical-device-reporting-mdr-how-report-medical-device-problems/voluntary-malfunction-summary-reporting-program.* Manufacturers that choose to participate in quarterly summary reporting through this program will remain responsible for complying with applicable MDR requirements under part 803 (*e.g.,* requirements to establish and maintain MDR event files under § 803.18) and quality system requirements under part 820 (21 CFR part 820) (*e.g.,* the requirement to evaluate, review, and investigate any complaint that represents an MDR reportable event under § 820.198).

If FDA determines that individual malfunction reports are necessary from a specific manufacturer or for specific devices, FDA will notify relevant manufacturers that they must submit individual reports and provide an explanation for that decision and, as appropriate, the steps necessary to return to summary, quarterly reporting. The Agency also notes that, under § 803.19(d), it may revoke or modify in writing an exemption, variance, or alternative reporting requirement if it determines that revocation or modification is necessary to protect the public health.

V. Updating Product Codes for Inclusion Into the Program

FDA recognizes that new product codes will be created in the future. In general, as explained in the document published in 2018 (83 FR 40973, August 17, 2018), FDA does not intend to consider devices under product codes in existence for fewer than 2 years to be eligible for the program, unless the new product code was issued solely for administrative reasons. However, FDA will periodically evaluate new product codes after they have been in existence for 2 years to determine whether they should be added to the list of product codes eligible for the Voluntary Malfunction Summary Reporting Program. If FDA determines that a new product code should be added, then it will grant manufacturers of devices within that product code the same alternative under § 803.19 for malfunction events associated with those devices and update FDA's Product Classification database accordingly to reflect the changes.

Manufacturers can send a request for a product code to be added to the list of eligible product codes and for manufacturers of devices within that product code to be granted the same alternative for malfunction events associated with those devices to the *MDRPolicy@fda.hhs.gov* mailbox.

VI. Conclusion

In accordance with section 519(a)(1)(B)(i) of the FD&C Act and § 803.19(d), FDA is modifying the alternative granted to manufacturers of devices in eligible product codes, as identified in the FDA's Product Classification Database, available on FDA's website *https://www.fda.gov/medical-devices/medical-device-reporting-mdr-how-report-medical-device-problems/voluntary-malfunction-summary-reporting-program,* for the Voluntary Malfunction Summary Reporting Program. Specifically, we are modifying the malfunction summary reporting format to enhance consistency with the revised Form FDA 3500A and to update FDA references to MDR adverse event codes, as well as to make a few editorial changes for additional clarity. This modification will help ensure the accuracy and consistency of summary malfunction reporting information submitted to FDA and thus help protect the public health.

VII. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500, and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. Although FDA has verified the website addresses in this document, please note that websites are subject to change over time.

1. FDA. MedWatch Form FDA 3500A. Available at: *https://www.fda.gov/safety/medical-product-safety-information/medwatch-forms-fda-safety-reporting.*
2. FDA. Electronic Medical Device Reporting (eMDR) website. Available at: *https://www.fda.gov/industry/fda-esubmitter/electronic-medical-device-reporting-emdr.*
3. * FDA. Medical Device User Fee Agreement IV Commitment Letter. Available at: *https://www.fda.gov/downloads/ForIndustry/UserFees/MedicalDeviceUserFee/UCM535548.pdf.*

Dated: August 23, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–19414 Filed 8–28–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2024–0559]

RIN 1625–AA00

Safety Zone; West Passage Narragansett Bay, Jamestown, RI

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule and request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 250-yard radius of the MARMAC 306 cable laying barge, and a J.F. Brennan construction barge #4132. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by cable laying operations being conducted in the vicinity of the West Passage Narragansett Bay, Jamestown, RI, between the Jamestown Verrazzano Bridge and south to Dutch Island. When enforced, entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, Sector Southeastern New England.

DATES:

Effective date: This temporary interim rule is effective from 12:01 a.m. on September 1, 2024, through 11:59 p.m. on December 31, 2024. The rule will

only be subject to enforcement while the MARMAC 306 cable laying barge and J.F. Brennan construction barge #4132 are engaged in operations.

Comment date: Comments and related material must be received by the Coast Guard on or before September 30, 2024.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2024–0559 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email MST2 Nicholas Easley, Sector Southeastern New England, U.S. Coast Guard; telephone 206–827–4160, email *Nicholas.S.Easley@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Southeastern New England
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On May 31, 2024, Orsted, an offshore wind energy developer, made the Coast Guard aware of their plans for cable laying operations associated with the Revolution Wind Farm project in vicinity of West Passage Narragansett Bay, Jamestown, RI, between Jamestown Verrazzano Bridge, and south to Dutch Island. The cable laying operation involves the use of a MARMAC 306 barge and J.F. Brennan construction barge #4132 that will utilize a thruster system and five high tension anchors extending out from each barge to maintain its position. At times the anchor lines may lie just below the surface of the water.

The Coast Guard is issuing this temporary rule under the authority in 5 U.S.C. 553(b)(B). This statutory provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' The Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The details of the project were not known to the Coast Guard in sufficient time to publish an NPRM. Delaying the effective date of this rule to wait for a comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the public and vessels from the hazards associated with the cable laying process. The expeditious implementation of this rule is in the public interest because it will help ensure the safety of personnel, waterway users, and the marine environment.

Also, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because prompt action is needed to respond to the potential safety hazards associated with the cable installation being conducted by the MARMAC 306 barge and J.F. Brennan construction barge #4132.

We are soliciting comments on this rulemaking. If the Coast Guard determines that changes to the temporary interim rule are necessary, we will publish a temporary final rule or other appropriate document.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority in 46 U.S.C. 70034. The Captain of the Port Sector Southeastern New England (COTP) has determined that potential hazards associated with the cable installation starting on September 1, 2024, will be a safety concern for anyone within a 250-yard radius of the MARMAC 306 barge and J.F. Brennan construction barge #4132. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the cable installation is being conducted.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from 12:01 a.m. on September 1, 2024, until 11:59 p.m. on December 31, 2024. While the safety zone will be effective through this period, it will only be enforced during active submerged cable laying operations or other instances which may create a hazard to navigation. The safety zone will cover all navigable waters within 250 yards of the barge MARMAC 306 and J.F. Brennan construction barge #4132 while they are operating in the vicinity of the West Passage Narragansett Bay, Jamestown, RI, between the Jamestown Verrazzano Bridge (41°31′43.7″ N 71°24′18.2″ W) and south to Dutch Island (41°29′47.3″ N, 71°24′16.5″ W). During times of enforcement, all persons or vessels would be prohibited from entering the safety zone without permission from the COTP or a designated representative. If cable laying operations and associated operations are completed before 11:59 p.m. on December 31, 2024, enforcement of the safety zone will be suspended, and notice given via Broadcast Notice to Mariners.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around the safety zone which would impact a 250-yard radius around the MARMAC 306 and J.F. Brennan construction barge #4132 while engaged in cable laying operations. The Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the

reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone, lasting only during the hours of operation of the MARMAC 306 J.F. Brennan construction barge #4132, that will prohibit entry within 250 yards of vessels and machinery being used by personnel to install the cable. It is categorically excluded from further review under paragraph L60a of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. If we determine that changes to the temporary interim rule are necessary, the Coast Guard will publish a temporary final rule or other appropriate document. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2024–0559 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. Also, if you click on the Dockets tab and then the proposed rule, you should see a ''Subscribe'' option for email alerts. The option will notify you when comments are posted, or a final rule is published.

We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

Personal information. We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5;

Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T01–0559 to read as follows:

§ 165.T01–0559 Safety Zone; West Passage Narragansett Bay, Jamestown, RI.

(a) *Location.* The following area is a safety zone: All waters within a 250-yard radius of the MARMAC 306 cable laying barge and J.F. Brennan construction barge #4132 while operating in West Passage Narragansett Bay, Jamestown, RI, between Jamestown Verrazzano Bridge (41°31′43.7″ N 71°24′18.2″ W) and Dutch Island (41°29′47.3″ N, 71°24′16.5″ W).

(b) *Definitions.* As used in this section, *Designated Representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Southeastern New England (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF–FM radio channel 16 or phone at 866–819–9128. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section is effective from 12:01 a.m. on Sunday, September 1, 2024, through 11:59 p.m. on Tuesday, December 31, 2024. The safety zone described in paragraph (a) of this section will only be subject to enforcement while the MARMAC 306 cable laying barge and J.F. Brennan construction barge #4132 are engaged in cable laying operations.

Y. Moon,

Captain, U.S. Coast Guard, Captain of the Port Sector Southeastern New England.

[FR Doc. 2024–19576 Filed 8–28–24; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2023–0208; FRL–12187–01–OCSPP]

Tetraacetylethylenediamine (TAED), and Its Metabolite Diacetylethylenediamine (DAED); Exemption From the Requirement of a Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of tetraacetylethylenediamine (TAED), including its metabolites and degradates, on or applied to food contact surfaces in public eating places, dairy processing equipment, and food processing equipment and utensils. This tolerance exemption is established on the Agency's own initiative under the Federal Food, Drug, and Cosmetic Act (FFDCA), in order to implement the tolerance actions EPA identified during its review of this chemical as part of the Agency's registration review program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATES: This regulation is effective August 29, 2024. Objections and requests for hearings must be received on or before October 28, 2024 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2023–0208, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP docket is (202) 566–1744. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Anita Pease, Antimicrobials Division (7510M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0736; email address: *pease.anita@epa.gov* or *ADFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are a pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).
- Restaurant kitchen cleaning services (NAICS code 561720).
- Milk production, dairy cattle (NAICS code 112120).
- Food processing machinery and equipment merchant wholesalers (NAICS code 423830).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2023–0208 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk in the Office of the Administrative Law Judges on or before October 28, 2024. Notwithstanding the procedural requirements of 40 CFR 178.25(b), the Office of the Administrative Law Judges has issued an order urging parties to file and serve documents with the Tribunal by electronic means only. *See Revised Order Urging Electronic Filing and Service* (dated June 22, 2023), *https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2023–0208, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Background

A. Proposed Rule

In the **Federal Register** of March 8, 2024 (89 FR 16714) (FRL–11678–01–OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of an Agency initiated exemption from the requirement of a tolerance for TAED, and its metabolites and degradates. The action proposed that 40 CFR 180.940(a) be amended by establishing an exemption from the requirement of a tolerance with no limit in end-use solutions eligible for tolerance exemption. The Agency had identified the need for the exemption as part of the registration review process under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136a(g), and published a proposed rulemaking under its authority to initiate tolerance rulemakings under the FFDCA section 408(e), 21 U.S.C. 346a(e).

As noted in the proposal, the *TAED Interim Registration Review Decision* (TAED ID), identified the need for this exemption based on existing registered pesticide uses, and the underlying risk assessment concluded that there were no risks of concern associated with these uses. Electronic copies of the TAED ID and other documents are available in EPA docket number EPA–HQ–OPP–2013–0608 at *https://www.regulations.gov.* There were no comments received in response to the notice of filing.

B. What is the Agency's authority for taking this action?

Under section 408(e) of the FFDCA, EPA can establish an exemption from the requirement of a tolerance for residues of a pesticide chemical after publishing a proposed rule and providing 60-day period for public comment, 21 U.S.C. 346a(e). EPA published the proposed rule on March 8, 2024, and provided 60 days for public comment (until May 7, 2024).

III. Final Rule

A. Comments

No comments were submitted in response to the proposed rule.

B. Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

As noted in the proposed rule, EPA reviewed the available scientific data and other relevant information as part of registration review and in support of this action. Based on that review, EPA's proposed rule concluded that the exemptions would be safe.

Since no comments were filed, EPA's assessment of the potential for risks from exposure to these pesticide chemicals and conclusions about the safety of this exemption remains unchanged. Therefore, based on the lack of any aggregate risks of concern, EPA concludes that this exemption from the requirement of a tolerance for residues of TAED, and its metabolites and degradates, is safe, *i.e.,* there is a reasonable certainty that no harm will result from aggregate exposures to TAED, and its metabolites and degradates, when used in accordance with the terms of the respective exemption. In addition, EPA has determined that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C).

IV. Conclusion

Therefore, an exemption from the requirement of a tolerance is established for residues of TAED, and its metabolites and degradates, when used on or applied to food contact surfaces in public eating places, dairy processing equipment, and food processing equipment and utensils, with no limitation.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders#influence.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) under Executive Orders 12866 (58 FR 51735, October 4, 1993), and 13563 (76 FR 3821, January 21, 2011) because it establishes tolerance exemptions under FFDCA section 408.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, 44 U.S.C. 3501 *et seq.,* because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the Agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule has no net burden on small entities subject to the rule. As discussed in the proposed rule, this takes into account the EPA analysis for the establishment and modification of tolerances. Furthermore, the Agency did not receive any comments on these conclusions as presented in the proposed rule.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local, or Tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132, August 10, 1999 (64 FR 43255). It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175, November 9, 2000 (65 FR 67249), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) directs Federal agencies to include an evaluation of health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potential effective and reasonably feasible alternatives. This action is also not subject to Executive Order 13045, because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 (*See* Unit V.A.) and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. However, EPA's *Policy on Children's Health* applies to this action.

This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . .'' (FFDCA 408(b)(2)(C)). Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific and other data and other relevant information in support of these final tolerance actions. The Agency's consideration is documented in the pesticide specific registration review decision documents. See the discussion in Unit III. and access the chemical specific registration review documents in each chemical docket at *https://www.regulations.gov.*

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not a subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards under NTTAA section 12(d), 15 U.S.C. 272.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or indigenous peoples) and low-income populations. As discussed in more detail in the pesticide specific risk assessments conducted as part of the registration review for the pesticides identified in Unit II., EPA has considered the safety risks for the pesticides subject to this rulemaking and in the context of the tolerance actions set out in this rulemaking. EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples. Furthermore, EPA believes that this action is not likely to result in new disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 21, 2024.

Anita Pease,

Director, Antimicrobials Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.940, amend table 1 to paragraph (a) by adding, in alphabetical order, an entry for ''Tetraacetylethylenediamine (TAED)'' to read as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

TABLE 1 TO PARAGRAPH (a)

Pesticide chemical	CAS Reg. No.	Limits
* * * * *	*	*
Tetraacetylethylenediamine (TAED)	10543–57–4	None.
* * * * *	*	*

* * * * *

[FR Doc. 2024–19448 Filed 8–28–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2023–0455; FRL–12194–01–OCSPP]

Lactic Acid and L-Lactic Acid; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation removes the duplicative exemption from the requirement of a tolerance for residues of lactic acid and l-lactic acid, herein referred to as l-lactic acid, when applied/used in dairy processing equipment and food processing equipment and utensils. In addition, the Agency is amending an existing exemption from the requirement of a tolerance for lactic acid to also include l-lactic acid. The Agency is also establishing exemptions from the requirement of a tolerance for residues of l-lactic acid when used as a fruit and vegetable wash in or on all raw agricultural commodities, and for indirect or inadvertent residues of l-lactic acid in or on all livestock commodities, when residues are present therein as a result of animal drinking water coming into contact with hard non-porous surfaces treated with l-lactic acid (*i.e.,* troughs). These tolerance exemptions are established on the Agency's own initiative under the Federal, Food, Drug, and Cosmetic Act (FFDCA), in order to implement the tolerance actions EPA identified during its review of this chemical as part of the Agency's registration review program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATES: This regulation is effective August 29, 2024. Objections and requests for hearings must be received on or before October 28, 2024, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2023–0455, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and for the OPP Docket is (202) 566–1744. Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Anita Pease, Antimicrobials Division (7510M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–0736; email address: *pease.anita@epa.gov* or *ADFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Food manufacturing (NAICS code 311),
- Pesticide manufacturing (NAICS code 32532),
- Restaurant kitchen cleaning services (NAICS code 561720),
- Milk production, dairy cattle (NAICS code 112120),
- Food processing machinery and equipment wholesalers (NAICS code 423830).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov/current/title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2023–0455 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before October 28, 2024. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b). Notwithstanding the procedural requirements of 40 CFR 178.25(b), the Office of the Administrative Law Judges has issued an order urging parties to file and serve

documents with the Tribunal by electronic means only. *See Revised Order Urging Electronic Filing and Service* (dated June 22, 2023), *https://www.epa.gov/system/files/documents/2023-06/2023-06-22%20-%20revised%20order%20urging%20electronic%20filing%20and%20service.pdf.*

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2023–0455, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Background

A. Proposed Rule

In the **Federal Register** of November 13, 2023 (88 FR 77544) (FRL–11520–01–OCSPP), EPA proposed to remove a duplicative exemption from the requirement of a tolerance for residues of L-lactic acid, referred to as lactic acid in the proposed rule, when applied to dairy-processing equipment and food-processing equipment and utensils. Specifically, the action proposed removing the duplicative entry at 40 CFR 180.940(b). In addition, EPA proposed an amendment to 40 CFR 180.1090 to establish exemptions from the requirement of a tolerance for residues of lactic acid when used as a fruit and vegetable wash in or on all agricultural commodities, and for indirect or inadvertent residues of lactic acid in or on all livestock commodities, when residues are present therein as a result of animal drinking water coming into contact with hard non-porous surfaces treated with lactic acid (*i.e.,* troughs).

As noted in the proposal, the *L-lactic Acid Interim Registration Review Decision* (L-lactic Acid ID) identified the need for these exemptions based on existing registered pesticide uses and concluded that there were no risks of concern associated with these uses. Consequently, EPA concluded that the exemptions from the requirement of a tolerance for residues of l-lactic acid, when used as a fruit and vegetable wash in or on all raw agricultural commodities, and for indirect or inadvertent residues of lactic acid in or on all livestock commodities, when residues are present therein as a result of animal drinking water coming into contact with hard non-porous surfaces treated with lactic acid (*i.e.,* troughs) would be safe. Electronic copies of the L-lactic Acid ID and other documents are available in EPA docket number EPA–HQ–OPP–2020–0552 at *https://www.regulations.gov.*

B. What is the Agency's authority for taking this action?

Under section 408(e) of the FFDCA, EPA can establish an exemption from the requirement of a tolerance for residues of a pesticide chemical after publishing a proposed rule and providing 60-day period for public comment. 21 U.S.C. 346a(e). EPA published the proposed rule on May 5, 2023, and provided 60 days for public comment (until July 5, 2023).

III. Final Rule

A. Comments

The proposed rule received one anonymous public comment requesting the Agency consider adding another CAS number for l-lactic acid. The comment can be accessed electronically via *https://www.regulations.gov* using document ID EPA–HQ–OPP–2023–0455–0002. The proposed rule identified CAS # 50–21–5, which represents lactic acid. The commenter suggested adding CAS # 79–33–4, which represents lactic acid's biologically important stereoisomer, l-lactic acid, for clarity. L-lactic acid has two optical isomers. One is known as L-(+)-Lactic acid, and the other, its mirror image, is D-(−)-Lactic acid. L-(+)-Lactic acid is the isomer that imparts biocidal activity.

This comment does not change any Agency analysis of risk findings for l-lactic acid. The Agency agrees with the commenter that CAS # 79–33–4 should be included in this final rule for the exemption of the requirement of a tolerance.

B. Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

As noted in the proposed rule, EPA has reviewed the available scientific data and other relevant information as part of registration review and in support of this action. Based on that review, EPA's proposed rule concluded that the exemptions would be safe.

EPA's assessment of the potential for risks from exposure to these pesticide chemicals and conclusions about the safety of these exemptions remains unchanged. Therefore, based on the lack of any aggregate risks of concern, EPA concludes that these exemptions from the requirement of a tolerance for residues of l-lactic acid, are safe, *i.e.,* there is a reasonable certainty that no harm will result from aggregate exposures to l-lactic acid, when used in accordance with the terms of the respective exemptions. In addition, EPA has determined that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residues, in accordance with FFDCA section 408(b)(2)(C).

IV. Conclusion

Therefore, exemptions from the requirement of a tolerance are established for residues of l-lactic acid when used as a fruit and vegetable wash in or on all raw agricultural commodities, and for indirect or inadvertent residues of l-lactic acid in or

on all livestock commodities, when residues are present therein as a result of animal drinking water coming into contact with hard non-porous surfaces treated with lactic acid (*i.e.,* troughs). In addition, EPA is adding CAS # 79–33–4 to table 1 to 40 CFR 180.940(a) to capture lactic acid's biologically important stereoisomer, l-lactic acid. EPA is also removing the existing exemption in 40 CFR 180.940(b) for residues of lactic acid, as it is unnecessary and redundant of existing exemptions.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders#influence.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

This action is exempt from review by the Office of Management and Budget (OMB) under Executive Orders 12866 (58 FR 51735, October 4, 1993), and 13563 (76 FR 3821, January 21, 2011) because it establishes tolerance exemptions under FFDCA section 408.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA, 44 U.S.C. 3501 *et seq.,* because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the Agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule has no net burden on small entities subject to the rule. As discussed in the proposed rule, this takes into account the EPA analysis for the establishment and modification of tolerances. Furthermore, the Agency did not receive any comments on these conclusions as presented in the proposed rule.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local, or Tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132, August 10, 1999 (64 FR 43255). It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175, November 9, 2000 (65 FR 67249), because it will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) directs Federal agencies to include an evaluation of health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potential effective and reasonably feasible alternatives. This action is also not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866 (See Unit V.A.) and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. However, EPA's *Policy on Children's Health* applies to this action.

This rule finalizes tolerance actions under the FFDCA, which requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .'' (FFDCA 408(b)(2)(C)). Consistent with FFDCA section 408(b)(2)(D), and the factors specified therein, EPA has reviewed the available scientific and other data and other relevant information in support of these final tolerance actions. The Agency's consideration is documented in the pesticide specific registration review decision documents. See the discussion in Unit III. and access the chemical specific registration review documents in each chemical docket at *https://www.regulations.gov.*

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not a subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act (NTTAA)

This action does not involve technical standards under NTTAA section 12(d), 15 U.S.C. 272.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations (people of color and/or indigenous peoples) and low-income populations. As discussed in more detail in the pesticide specific risk assessments conducted as part of the registration review for the pesticides identified in Unit II., EPA has considered the safety risks for the pesticides subject to this rulemaking and in the context of the tolerance actions set out in this rulemaking. EPA believes that the human health and environmental conditions that exist prior to this action do not result in disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples. Furthermore, EPA believes that this action is not likely to result in new disproportionate and adverse effects on people of color, low-income populations, and/or indigenous peoples.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 5 U.S.C. 801 *et seq.,* and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not

a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 22, 2024.

Anita Pease,

Director, Antimicrobials Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Amend § 180.940 by:

■ a. In table 1 to paragraph (a), removing the entry for ''Lactic Acid'', and adding, in alphabetical order, the entry for ''Lactic acid (including l-lactic acid)''; and

■ b. In the table in paragraph (b), removing the entry for ''Lactic Acid''.

The addition reads as follows:

§ 180.940 Tolerance exemptions for active and inert ingredients for use in antimicrobial formulations (Food-contact surface sanitizing solutions).

* * * * *

(a) * * *

Pesticide chemical	CAS Reg. No.	Limits
*	*	* * * * *
Lactic acid (including l-lactic acid).	50–21–5, 79–33–4	When ready for use, the end-use concentration is not to exceed 10,000 ppm in antimicrobial formulations applied to food-contact surfaces in public eating places.
*	*	* * * * *

* * * * *

■ 3. Revise and republish § 180.1090 to read as follows:

§ 180.1090 Lactic acid, including l-lactic acid; exemption from the requirement of a tolerance.

(a) Lactic acid (2-hydroxypropanoic acid), including l-lactic acid is exempted from the requirement of a tolerance when used as a plant growth regulator or fruit and vegetable wash in or on all raw agricultural commodities.

(b) An exemption from the requirement of a tolerance is established for indirect or inadvertent residues of lactic acid (2-hydroxypropanoic acid), including l-lactic acid, in or on all livestock commodities, when residues are present therein as a result of animal drinking water coming into contact with hard non-porous surfaces treated with lactic acid (*i.e.,* troughs).

[FR Doc. 2024–19456 Filed 8–28–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R01–RCRA–2023–0612; FRL 11619–02–R1]

Rhode Island: Final Authorization of State Hazardous Waste Management Program; Revisions and Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The State of Rhode Island Department of Environmental Management (RIDEM) has applied to the Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The EPA has reviewed Rhode Island's application and has determined that Rhode Island's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Additionally, this document corrects errors made in the State authorization citations published in the March 12, 1990, March 5, 1992, October 2, 1992, and August 9, 2002 **Federal Register**. The EPA is authorizing the State program revisions through this final action. In the ''Proposed Rules'' section of this **Federal Register**, the EPA is also publishing a separate document that serves as the proposal to authorize these revisions. Unless the EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Rhode Island's revisions to its hazardous waste program will take effect.

DATES: This final authorization is effective on October 28, 2024, unless the EPA receives adverse written comment by September 30, 2024. Should the EPA receive such comments, it will publish a timely document either: withdrawing the final action or affirming the publication and responding to comments.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–RCRA–2023–0612, at *https://www.regulations.gov/.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit*https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Liz McCarthy or Joe Hayes, RCRA Waste Management and Lead Branch; Land, Chemicals, and Redevelopment Division; U.S. EPA Region 1, 5 Post Office Square, Suite 100 (Mail code 07–1), Boston, MA 02109–3912; phone: (617) 918–1447 or (617) 918–1362; email: *mccarthy.liz@epa.gov or Hayes.Joseph@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Authorization of Revisions to Rhode Island's Hazardous Waste Program

A. Why are revisions to State programs necessary?

States that have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized States at the same time that they take effect in unauthorized States. Thus, the EPA will implement those requirements and prohibitions in Rhode Island, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

B. What decisions has the EPA made in this final action?

On September 12, 2023, Rhode Island submitted a complete program revision application seeking authorization of revisions to its hazardous waste program. The EPA concludes that Rhode Island's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, the EPA grants final authorization to Rhode Island to operate its hazardous waste program with the revisions described in its authorization application, and as listed below in section G of this document.

The Rhode Island Department of Environmental Management (RI DEM) has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of HSWA, as discussed above.

C. What is the effect of this authorization decision?

If the State of Rhode Island is authorized for these changes, a facility in Rhode Island subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Additionally, such facilities will have to comply with any applicable Federal requirements such as, for example, HSWA regulations issued by the EPA for which the State has not received authorization. The State of Rhode Island will continue to have primary enforcement authority and responsibility for its State hazardous waste program. The EPA would maintain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action to approve these provisions will not impose additional requirements on the regulated community because the regulations for which the State of Rhode Island is requesting authorization are already effective under State law and are not changed by the act of authorization.

D. Why is the EPA using a final action?

The EPA is publishing this action without prior proposal because the EPA views this as a noncontroversial action and anticipates no adverse comment. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed action allowing the public an opportunity to comment. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this action, see the **ADDRESSES** section of this document.

E. What happens if the EPA receives comments opposing this action?

If the EPA receives comments that oppose this authorization, we will publish a timely withdrawal in the **Federal Register** informing the public that this final action will not take effect. We will address all public comments in a later **Federal Register**. You will not have another opportunity to comment. If you want to comment on this action, you must do so at this time.

F. What has Rhode Island previously been authorized for?

Rhode Island initially received final Authorization on January 30, 1986, effective January 31, 1986 (51 FR 3780) to implement its base hazardous waste management program. The EPA granted authorization for revisions to Rhode Island's regulatory program on the following dates: March 12, 1990, effective March 26, 1990 (55 FR 9128); March 6, 1992, effective May 5, 1992 (57 FR 8089); October 2, 1992, effective December 1, 1992 (57 FR 45574); August 9, 2002, effective October 8, 2002 (67 FR 51765); December 11, 2007, effective February 11, 2008 (72 FR 70229); and July 26, 2010, effective September 24, 2010 (75 FR 43409). Additionally, on July 26, 2010 (75 FR 43478), the EPA granted Rhode Island final authorization to operate its hazardous waste program with the changes relating to the Zinc Fertilizer Rule and Burden Reduction Initiative which became effective on September 24, 2010 (75 FR 57188).

G. What changes is the EPA authorizing with this action?

On June 25, 2024, Rhode Island submitted a final complete program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. We now make a final decision, subject to receipt of written comments that oppose this action, that Rhode Island's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. The RIDEM revisions consist of regulations which specifically govern Federal hazardous waste revisions promulgated between July 1, 2008, through June 30, 2013 (RCRA Clusters XIX through XXII), and the Federal final rule published July 31, 2013 (78 FR 46448, effective January 31, 2014) (Revision Checklist 229), except as listed below; as well as State-initiated changes to the State's previously authorized program. The Rhode Island revisions being authorized in this action include provisions that contain purely Federal functions which are not delegable to States. The non-delegable Federal program areas include import/export requirements reserved as part of the Federal foreign relations function and manifest registry administered solely by the EPA. Rhode Island has appropriately adopted these provisions by leaving the authority with the EPA for implementation and enforcement.

Rhode Island's regulatory references are to Rhode Island Code of Regulations

(RICR) Title 250 Department of Environmental Management, Chapter 140 Waste and Materials Management, Subchapter 10 Hazardous Waste, Part 1 Rules and Regulations for Hazardous Waste Management (250–RICR–140–10–1), as amended effective April 22, 2020. Rhode Island's statutory authority for its hazardous waste program is based on the Rhode Island Hazardous Waste Management Act (Rhode Island General Laws Title 23 Health and Safety, Chapter 23—19.1 Hazardous Waste Management). Therefore, we grant Rhode Island final authorization for the following changes that are being recognized as no less stringent than the analogous Federal requirements:

1. Program Revision Changes for Federal Rules

The State of Rhode Island revisions consist of regulations which specifically govern Federal hazardous waste revisions promulgated from July 1, 2008, through June 30, 2013 (RCRA Clusters XIX through XXII), and the Federal final rule published July 31, 2013 (78 FR 46448, effective January 31, 2014) (Revision Checklist 229); except the final rules published October 30, 2008 (73 FR 64668, effective December 29, 2008) (Revision Checklist 219), December 1, 2008 (73 FR 72912, effective December 31, 2008) (Revision Checklist 220), January 8, 2010 (75 FR 1236, effective July 7, 2010) (Revision Checklist 222), and December 20, 2010 (75 FR 79304, effective March 7, 2011) (Revision Checklist 226).

TABLE 1—RHODE ISLAND'S ANALOGS TO THE FEDERAL REQUIREMENTS

Federal citation (40 CFR as of July 1, 2013)	Analogous State authority
1. 40 CFR 124.3, 124.5, 124.6, 124.8, 124.10, 124.11, 124.12, 124.15, 124.17, 124.19, 124.31 through 124.33.	Title 250 Rhode Island Code of Regulations (250–RICR–140–10–1) 250–RICR–140–10–1.9(C)(2) through (C)(14).
2. 40 CFR part 260, except 260.30(d) and (e), 260.33, 260.34, 260.42, 260.43.	Title 250 Rhode Island Code of Regulations (250–RICR–140–10–1) 250–RICR–140–10–1.4(B), 1.4(C), 1.5(A) (except State-only terms authorized as State-initiated changes in Item G.2 below), 1.6. (More stringent provisions: 1.4(C)(8) through (C)(13)).
3. 40 CFR part 261, except §§ 261.2(a)(1), (a)(2)(ii), (c)(3), (c) Table, 261.4(a)(23), (a)(24), (a)(25), (b)(7)(ii)(F), (b)(10), (b)(18); subpart H.	250–RICR–140–10–1.4(B), 1.4(C) introductory paragraph, 1.4(C)(14) through (30), 1.5(A)(14), 1.13 (More stringent provisions: 1.4(C)(15) through (C)(19), (C)(21), (C)(25, (C)(26), (C)(30), 1.13; Rhode Island is also more stringent because the State has not adopted 40 CFR part 261, subpart H, subjecting those materials to full regulation.).
4. 40 CFR part 262, except §§ 262.10(l), 262.34(h) and (i); subparts E, F, H, and K.	250–RICR–140–10–1.7.1 through 1.7.4, 1.7.6 through 1.7.14. (More stringent provisions: 1.7.1(B) through (E), 1.7.2 through 1.7.4, 1.7.8, 1.7.11 through 14; Rhode Island is also more stringent because the State has not adopted the Federal academic labs rule, subjecting those entities to full regulation.).
5. 40 CFR part 263, except § 263.20(h)	250–RICR–140–10–1.4(B), (D), 1.8.5 through 1.8.7, 1.8.9 through 1.8.15, 1.8.17, 1.8.18, 1.11. (More stringent provisions: 1.4(D)(1), 1.8.5 through 1.8.7, 1.8.9, 1.8.10 through 1.8.15, 1.8.18, 1.11).
6. 40 CFR part 264, except §§ 264.1(c), (d), (f), (g)(1), (g)(4), (g)(12), 264.15(b)(5), 264.18(a), 264.195(e); subparts AA, BB, CC; §§ 264.149, 264.150; appendix VI.	250–RICR–140–10–1.4(B), 1.4(E), 1.10.2(A), 1.17.1, 1.17.3. (More stringent provisions: 1.10.2(A)(5), (6), (11) through (13), (18) through (27), (32), (38), (40), (43) through (55), 1.17.1).
7. 40 CFR part 265, except § 265.1(c)(8)	250–RICR–140–10–1.4(B), 1.4(F). (More stringent provisions: 1.4(F)(1)).
8. 40 CFR part 266, except subpart H	250–RICR–140–10–1.4(B), 1.4(G). (More stringent provisions: Rhode Island is also more stringent because the State has omitted an analog to 40 CFR part 266, subpart H, as they do not allow this type of facility in the State.).
9. 40 CFR part 267	No State analogs, see section 1.4(B). (More stringent provisions: Rhode Island is more stringent than the Federal because the State does not allow this type of permit to be used.).
10. 40 CFR part 268	No State analogs, see section 1.4(B).
11. 40 CFR part 270, except §§ 270.1(c)(1)(iii), (c)(2)(ii), (c)(2)(ix), 270.10(a)(5), (a)(6), (e)(1)(iii), (l), 270.15(e), 270.16(k), 270.17(j), 270.22, 270.24, 270.25, 270.27, 270.60(a), 270.63 through 270.67; subparts I and J; §§ 270.42(l), 270.215(c) and (d).	250–RICR–140–10–1.4(B), 1.4(H), 1.9(B), 1.17.2(A)(1) through (9). (More stringent provisions: 1.9(B)(1)(d) first, second, fourth and fifth sentences, (B)(1)(g), (B)(1)(k), (B)(1)(l), (B)(1)(o), (B)(1)(p), (B)(1)(q), (B)(1)(t), (B)(1)(u), (B)(1)(v) introductory paragraph third sentence and (B)(1)(v)(1) through (3), (B)(2) through (20), (B)(22), (B)(24) through (37), B(39) through (51), (B)(54), (B)(56), (B)(58)).
12. 40 CFR part 273, except §§ 273.3(b)(1), 273.4(b)(2), 273.5(b)(2), 273.8.	250–RICR–140–10–1.4(B), 1.4(I), 1.14.1 through 1.14.5. (More stringent provisions: 1.14.5(A)(8) through (A)(10), (A)(12) through (A)(15), (A)(17, (A)(18)).
13. 40 CFR part 279	250–RICR–140–10–1.16. (More stringent provisions: 1.16.1(A)(5) through (8), (A)(12), A)(15), 1.16.2(A)(1), (A)(4), (A)(5), (A)(7), (A)(8), 1.16.3, 1.16.3(A)(6) Table 3, 1.16.4(A)(1)(a), (d), (e), (A)(2)(a) and (c), (A)(5), (A)(7)(d) and (e), (A)(7)(h), 1.1.6(B) and (D), 1.16.7(C)(2), (D)(1), (E), (F), (G)(1)(b), (H)(2) through (5), (H)(7) through (12), (H)(14)(c), (H)(16), 1.16.8(B) through (E) and (G) through (J), (U), (V)).

Additionally, Rhode Island is being authorized for the following program areas which are particularly regulated by the State; the regulations for which have been analyzed by the EPA to ensure the Rhode Island regulations are equally or more protective of human health and the environment as the Federal regulations, and are neither less stringent, nor narrower in scope than the Federal program. The EPA has determined that the State's regulations for the listed programs are more protective or stricter than the Federal program; thus, these regulations are within the State's authority to maintain under RCRA section 3009. To determine whether the State regulations are stricter and not less stringent than the Federal regulations, the EPA has compared the State regulations to the Federal regulations, including examining interpretations that have been made of the Federal regulations (available in the

administrative record and in RCRA Online). However, in line with the national policy: Determining Equivalency of State RCRA Hazardous Waste Programs, September 7, 2005 (Equivalency Policy), the EPA has not required that the State follow the same identical approach as the Federal regulations. Rather, the EPA has focused, ''on whether the state requirements provide [at least] equal environmental results as the Federal counterparts.'' *Id.*

(a) Rhode Island has additional, State-specific conditions which wastewater treatment units must meet in order to be exempt from the 40 CFR part 264 standards as allowed by 40 CFR 264.1(g)(6). At 250–RICR–140–10–1.10.2(A)(5), the State allows treatment in an evaporation unit (as defined by the State at 250–RICR–140–10–1.5(A)(30)) under the permit exemption under limited circumstances and only when this does ''not allow evaporation of significant amounts of hazardous waste constituents into the air'' (250–RICR–140–10–1.7.1(C)(5)(e)(7).

At the Federal level, the wastewater treatment unit (WWTU) exemption has been interpreted to cover many hazardous waste evaporators. Rhode Island is stricter than this Federal approach in that it excludes wastewater evaporation units from being covered under its WWTU exemption. Rather, the State regulates them under its more protective generator treatment in tanks exemption. Furthermore, Rhode Island's generator treatment in tanks exemption is more stringent than the Federal exemption in that it imposes additional requirements designed to effectively regulate evaporators.

However, there may be some evaporators that do not qualify for the WWTU exemption at the Federal level. The EPA has concluded that it should look at the overall RCRA program and assess the effect of the Rhode Island program with respect to evaporators, broadly. In doing so, the EPA has concluded that the Rhode Island program is stricter than any of the Federal requirements with respect to wastewater evaporators. Rhode Island consistently and strictly regulates all generator evaporators by imposing hazardous waste management requirements and comprehensive air emissions regulations, which are administered by the EPA with respect to the requirements of 40 CFR part 265, subparts AA, BB, and CC. This approach is stricter across the board than the Federal approach, and thus should be allowed consistent with the national Equivalency Policy, which emphasizes that States may take different but equally or more protective approaches.

The EPA emphasizes that this decision allows non-permitted evaporation treatment (outside of the WWTU exemption) only in Rhode Island. Such treatment will be allowed only because it has been federally authorized as functionally equivalent, and this Federal authorization is being granted based on the strict requirements adopted by Rhode Island.

(b) Rhode Island requires that in addition to the Federal requirement, treatment in tanks and containers must be carried out in a system where equipment has been designed, engineered, and constructed so as to protect human health and the environment, and to comply with all requirements within OSHA standards.

(c) Rhode Island has adopted additional conditions under which the State regulates shredded circuit boards that are being recycled. At 250–RICR–140–10–1.13 Rhode Island has enacted additional State-specific requirements for Circuit Board Recycling Operations, including additional notification requirements. Typically treated as universal waste in the Federal program, Rhode Island includes these specific items as a type of State-only waste under RCRA. These items may be managed as hazardous waste, thereby making the State requirements broader in scope in this regard and not part of the federally enforceable State hazardous waste requirements.

(d) At 250–RICR–140–10–1.12 Rhode Island's regulations contain Requirements for Community Collection Centers and Paint Collection Centers. The Federal program does not regulate these types of facilities or wastes, so as such and as described with respect to the ''broader in scope'' policy of EPA, these requirements are being authorized as State-only and broader in scope than the Federal program and are not part of the federally enforceable State hazardous waste requirements. This includes all related State definitions at 250 RICR–140–10–1.5(A) such as ''architectural paint'' at (A)(5) and ''community collection center'' at (A)(12).

Finally, there are certain Federal rules within the Rhode Island incorporation by reference of Federal regulations that have been vacated or withdrawn. For completeness, these rule checklists are included below with an explanation as to the rule's status in Rhode Island. These rules are not part of the State's authorized program. These checklists include:

Revision Checklist 216: Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthetic Gas (73 FR 57, January 2, 2008). This Revision Checklist 216 was vacated by the U.S. Court of Appeals for the District of Columbia Circuit in 2014, a vacatur that was later codified as Revision Checklist 234, which is not part of the State's current authorization application package.

Revision Checklist 221: Expansion of RCRA Comparable Fuel Exclusion (73 FR 77954, December 19, 2008); and Revision Checklist 224: Withdrawal of the Emission Comparable Fuel Exclusion (75 FR 33712, June 15, 2010). Revision Checklist 221 introduced an expansion of the comparable fuel exclusion which was later withdrawn in its entirety by Revision Checklist 224; thus, it is appropriate to not authorize the State for this pair of Federal final rules which cancel each other out.

Rhode Island's authorized program continues to be equivalent to and no less stringent than the Federal program without having to make any conforming changes pursuant to these rule checklists, as explained above.

2. State-Initiated Changes

Rhode Island has made amendments to its regulations that are not directly related to any of the Federal rules addressed in Item G.1. above. These State-initiated changes are either conforming changes made to existing authorized provisions, or the adoption of provisions that clarify and make the State's regulations internally consistent. For example, after the 2010 authorization, Rhode Island significantly altered the structure and numbering of the State's hazardous waste regulations, replacing the numbering system and making conforming changes to all necessary internal references, which does not affect the authorization of the State's hazardous waste program. The State's regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the Federal laws and regulations. These State-initiated changes are submitted under the requirements of 40 CFR 271.21(a) and include the following provisions from the Rhode Island Code of Regulations (250–RICR–140–10), as amended effective April 22, 2020: 250–RICR–140–10–1..4(A), 1.4(C), 1.5(A)(5), (A)(12), (A)(20), (A)(30), (A)(44), (A)(45), (A)(73).

H. Where are the revised State rules different from the Federal rules?

When revised State rules differ from the Federal rules in the RCRA State authorization process, the EPA

determines whether the State rules are equivalent to, more stringent than, or broader in scope than the Federal program. Pursuant to RCRA section 3009, 42 U.S.C. 6929, State programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. Although the statute does not prevent States from adopting regulations that are broader in scope than the Federal program, States cannot receive Federal authorization for such regulations, and they are not federally enforceable.

1. Broader in Scope Provisions

Rhode Island's hazardous waste program contains certain provisions that are broader than the scope of the Federal program. These broader in scope provisions are not part of the program the EPA is proposing to authorize. The EPA cannot enforce requirements that are broader in scope, although compliance with such provisions is required by State law. Newly added broader in scope provisions in Rhode Island's program include:

(a) At 250–RICR–140–10–1.5(A)(82) the State lists additional State-only hazardous wastes that are beyond the Federal definition of hazardous waste found at 40 CFR 261.3 and known as ''Rhode Island Wastes.'' These additional wastes include polychlorinated biphenyls (PCBs) and chemotherapy waste. As part of this authorization the State has added a new subsection at 1.5(A)(82)(a)(3)(DD) to include certain drugs that Rhode Island will classify as ''extremely hazardous waste.''

(b) Rhode Island excludes from its incorporation by reference several waste items that are excluded from the Federal definition of solid waste at 40 CFR 261.2, thereby regulating these waste items as State-only hazardous wastes. When substances are regulated as hazardous waste by the State, such as those listed at 250–RICR–140–10–1.4(C)(20) and 1.4(C)(22), the State program is broader in scope than the Federal program.

(c) At 250–RICR–140–10–1.4(C)(23) and 1.4(C)(29) Rhode Island regulates manufactured gas plant waste as hazardous waste in certain circumstances, expanding the universe of hazardous waste regulated by the State.

(d) At 250–RICR–140–10–1.12 Rhode Island regulates a category of State-only facilities, ''Community Collection Centers and Paint Collection Centers,'' which is broader in scope than the Federal program, including facility specific limitations such as the exclusion for architectural paint received by Paint Care Centers from specific generators as described at 250–RICR–140–10–1.7.6(B)(4).

2. More Stringent Provisions

Rhode Island's hazardous waste program contains several types of provisions that are more stringent than the Federal RCRA program. More stringent provisions are part of a federally authorized program and are therefore federally enforceable. Under this action, the EPA will authorize every provision in Rhode Island's program revision that is more stringent. Provisions identified in the State's program revision as more stringent are noted in Table 1. These provisions are more stringent for the following reasons:

(a) Rhode Island has several requirements applicable to generators of hazardous waste that are more stringent than the Federal requirements at 40 CFR 262.10, including requirements for the management of household hazardous waste and the State's exclusion of the academic lab rule at 250–RICR–140–10–1.7.1(B)-(E), as well as additional requirements for farmers and laboratories.

(b) The State's application of additional storage and transportation requirements, accumulation time limits, exemptions, and recordkeeping such as those found at 250–RICR–140–10.1.7.1 through 1.7.14 including notification, marking, and manifest requirements for CESQGs result in the State program being more stringent than the Federal program.

(c) At 250–RICR–140–10–1.4(D)(1) Rhode Island limits the onsite storage of manifested waste in containers at a transfer facility to 72 hours before additional regulation applies while the Federal program allows this period to extend up to ten (10) days.

(d) At 250–RICR–140–10–1.8 Rhode Island has State-only transport, storage and handling requirements that impose greater restrictions than those found in the Federal requirements at 40 CFR part 263, subparts B and C.

I. Who handles permits after the authorization takes effect?

Rhode Island will continue to issue permits covering all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer and enforce any RCRA and HSWA permits or portions of permits that the EPA issued prior to the effective date of this authorization in accordance with the signed Memorandum of Agreement, dated September 30, 2021, which is included with this program revision application. Until such time as formal transfer of the EPA permit responsibility to Rhode Island occurs and the EPA terminates its permit, the EPA and Rhode Island agree to coordinate the administration of permits in order to maintain consistency. The EPA will not issue any new permits or new portions of permits for the provisions listed in section G after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Rhode Island is not yet authorized.

J. How would this action affect Indian Country (18 U.S.C. 115) in Rhode Island?

Rhode Island has not applied for and is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the land of the Narragansett Indian Tribe. Therefore, this action has no effect on Indian country. The EPA retains jurisdiction over Indian country and will continue to implement and administer the RCRA program on these lands.

K. What is codification and will the EPA codify Rhode Island's hazardous waste program as authorized in this final action?

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA is not codifying the authorization of Rhode Island's revisions at this time. However, the EPA reserves the ability to amend 40 CFR part 272, subpart OO, for the authorization of Rhode Island's program at a later date.

II. Corrections

Past Rhode Island authorization **Federal Register** notifications contain typographical errors and omissions for some of the rule checklists/provisions included in the EPA's authorization decision for State program revisions. The EPA is correcting these omissions with this authorization. The provisions in these checklists continue to be part of Rhode Island's authorized program.

A. Corrections to the March 12, 1990 (55 FR 9128) Proposed Authorization Document

There was an error in the citation for Revision Checklist 2 in ''Table 1—Provisions Covered by this Program

Authorization Revision.'' The entry should be corrected to read: Permit Rules: Settlement Agreement (48 FR 39611, September 1, 1983) (Revision Checklist 2).

B. Corrections to the March 5, 1992 (57 FR 8089) Immediate Final Rule

The following items were inadvertently omitted from ''Table 1—Provisions Covered by this Program Authorization Revision'' and should be added to the end of the Table.

1. HSWA Codification Rule: Double Liners (50 FR 28702, July 15, 1985) (Revision Checklist 17H).

2. HSWA Codification Rule: Groundwater Monitoring (50 FR 28702, July 15, 1985) (Revision Checklist 17I).

3. HSWA Codification Rule: Interim Status (50 FR 28702, July 15, 1985) (Revision Checklist 17P).

4. HSWA Codification Rule: Research and Development Permits (50 FR 28702, July 15, 1985) (Revision Checklist 17Q).

C. Corrections to the October 2, 1992 (57 FR 45574) Immediate Final Rule

The following items were inadvertently omitted from ''Table 1—Provisions Covered by this Program Authorization Revision'' and should be added to the end of the Table.

1. Biennial Report Correction (51 FR 28556, August 8, 1986) (Revision Checklist 30).

2. Closure/Post-closure Care for Interim Status Surface Impoundments (52 FR 8704, March 19, 1987) (Revision Checklist 36).

3. Amendments to Part B Information Requirements for Land Disposal Facilities (52 FR 23447, June 22, 1987, as amended September 9, 1987, at 52 FR 33936) (Revision Checklist 38).

D. Corrections to the August 9, 2002 (67 FR 51768) Immediate Final Rule

The following items were inadvertently omitted from the table of provisions included as part of the authorization and should be added to the end of the Table.

1. Permit Modification for Hazardous Waste Management Facilities (53 FR 37912, September 28, 1988, as amended October 24, 1988, at 53 FR 41649) (Revision Checklist 54).

2. Statistical Methods for Evaluating Groundwater Monitoring Data from Hazardous Waste Facilities (53 FR 39720, October 11, 1988) (Revision Checklist 55).

3. Changes to Interim Status Facilities for Hazardous Waste Management Permits; Modification of Hazardous Waste Management Permits; Procedures for Post-Closure Permitting (54 FR 9596, March 7, 1989) (Revision Checklist 61).

III. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in taking this action, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of this action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). ''Burden'' is defined at 5 CFR 1320.3(b). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this action authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, this rulemaking is not subject to Executive Order 12898.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

David W. Cash,

Regional Administrator, U.S. EPA Region 1.

[FR Doc. 2024–19036 Filed 8–28–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 13–115; RM–11341; FCC 23–76; FR ID 240711]

Allocation of Spectrum for Non-Federal Space Launch Operations; Federal Earth Stations Communicating With Non-Federal Fixed Satellite Service Space Stations; and Federal Space Station Use of the 399.9–400.05 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule; correcting amendments.

SUMMARY: The Federal Communications Commission (Commission) is correcting a final rule that appeared in the **Federal Register** on August 5, 2024.

DATES: This correction is effective September 4, 2024.

FOR FURTHER INFORMATION CONTACT: Nicholas Oros of the Office of Engineering and Technology, at *Nicholas.Oros@fcc.gov* or 202–418–0636.

SUPPLEMENTARY INFORMATION: The FCC is correcting the Table of Allocations in 47 CFR 2.106. A rule the FCC published August 5, 2024, at 89 FR 63296 contained errors in the table formatting.

Accordingly, in FR Rule Doc. No. 2024–16638, appearing on page 63296 in the **Federal Register** of Monday, August 5, 2024, the following corrections are made:

§ 2.106 [Corrected]

■ 1. On pages 63315 through 63317, correct pages 26, 36, and 37 in § 2.106(a) to read as follows:

BILLING CODE 6712–01–P

* * * * *

235-267 FIXED MOBILE 5.111 5.252 5.254 5.256 5.256A	235-267 FIXED MOBILE 5.111 5.256 G27 G100	235-267 5.111 5.256	
267-272 FIXED MOBILE Space operation (space-to-Earth) 5.254 5.257	267-322 FIXED MOBILE	267-322	
272-273 SPACE OPERATION (space-to-Earth) FIXED MOBILE 5.254			
273-312 FIXED MOBILE 5.254			
312-315 FIXED MOBILE Mobile-satellite (Earth-to-space) 5.254 5.255			
315-322 FIXED MOBILE 5.254	G27 G100		
322-328.6 FIXED MOBILE RADIO ASTRONOMY 5.149	322-328.6 FIXED MOBILE US342 G27	322-328.6 US342	
328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258 5.259	328.6-335.4 AERONAUTICAL RADIONAVIGATION 5.258		Aviation (87)
335.4-387 FIXED MOBILE 5.254	335.4-399.9 FIXED MOBILE	335.4-399.9	
387-390 FIXED MOBILE Mobile-satellite (space-to-Earth) 5.208A 5.208B 5.254 5.255			
390-399.9 FIXED MOBILE 5.254	G27 G100		
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1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341		1700-1710 FIXED METEOROLOGICAL-SATELLITE (space-to-Earth) MOBILE except aeronautical mobile 5.289 5.341 5.384	5.341	5.341 US88	
1710-1930 FIXED MOBILE 5.384A 5.388A 5.388B 5.149 5.341 5.385 5.386 5.387 5.388			1710-1761 5.341 US91 US378 US385 1761-1780 SPACE OPERATION (Earth-to-space) G42 US91	1710-1780 FIXED MOBILE 5.341 US91 US378 US385	
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Federal Communications Commission

Marlene Dortch,

Secretary.

[FR Doc. 2024–19176 Filed 8–28–24; 8:45 am]

BILLING CODE 6712–01–C

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 22–238, 11–42, 21–450; FCC 23–96; FR ID 238679]

Supporting Survivors of Domestic and Sexual Violence, Lifeline and Link Up Reform Modernization

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective and compliance dates.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, a revision to an information collection associated with the rules for the Lifeline and Link Up Reform and Modernization contained in the Commission's Order, FCC 23–96 (Safe Connections Act Order). This document is consistent with the Safe Connections Act Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the new information collection requirements.

DATES:

Effective date: This final rule is effective August 29, 2024.

Compliance date: Compliance with §§ 54.403(a)(4), 54.405(e)(6), 54.409(a)(3), 54.410(d)(2)(ii), 54.410(i), 54.424(a) and (b), and 54.1800(j)(1) is required by August 29, 2024.

FOR FURTHER INFORMATION CONTACT: Nicholas Page, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484. For additional information concerning the Paperwork Reduction Act information collection requirements contact Nicole Ongele at (202) 418–2991 or via email: *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Commission submitted new information collection requirements for review and approval by OMB, as required by the Paperwork Reduction Act (PRA) of 1995, on June 10, 2024, which were approved by the OMB on August 7, 2024. The information collection requirements are contained in the Commission's Safe Connections Act Order (FCC 23–96, rel. Nov. 16, 2023), published at 88 FR 84406, on December 5, 2023. The OMB Control Number is 3060–0819. The Commission publishes this document as an announcement of the effective date of the rules that required PRA approval. If you have any comments on the burden estimates listed, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, regarding OMB Control Number 3060–0819. Please include the OMB Control Number, 3060–0819, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), or (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on August 7, 2024, for the information collection requirements contained in 47 CFR 54.403, 54.405, 54.409, 54.410, 54.424, and 54.1800, which revises §§ 54.403(a)(5), 54.405(e)(7), 54.409(a)(4), 54.410(j), 54.424(c), and 54.1800(j)(7).

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0819.

The foregoing notification is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0819.

OMB Approval Date: August 7, 2024.

OMB Expiration Date: August 31, 2027.

Title: Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Eligible for Universal Service Support.

Form No.: FCC Form 481, 497, 555, 5629, 5630, and 5631.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or Households; Business or other for-profit entities.

Number of Respondents and Responses: 25,110,068 respondents; 26,877,412 responses.

Estimated Time per Response: 0.0167–125 hours.

Frequency of Response: Annual, biennial, monthly, daily and on occasion reporting requirements, recordkeeping requirement and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority is contained in sections 1, 4(i), 5, 201, 205, 214, 219, 220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and section 706 of the Communications Act of 1996, as amended; 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302.

Total Annual Burden: 6,534,382 hours.

Total Annual Cost: $937,500.

Needs and Uses: The Commission provides updates to the existing FCC Form 5629 to implement the Safe Connections Act Order, FCC 23–96, to include information for survivors suffering financial hardship about how they can qualify to receive emergency communications support from the Lifeline program. The revisions also allow survivors to document or self-certify their financial hardship status and include a new question on survivor communication preferences. Additionally, the Commission adds a new requirement for Eligible Telecommunications Carriers (ETCs) seeking to relinquish their ETC designation.

The revisions to this collection reflect the notice and reporting requirements adopted by the Commission in the SCA Order.

List of Subjects in 47 CFR Part 54

Communications, Communications common carriers, Privacy, Telecommunications, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 to read as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601–1609, and 1752, unless otherwise noted.

§ 54.403 [Amended]

■ 2. Amend § 54.403 by removing paragraph (a)(5).

§ 54.405 [Amended]

■ 3. Amend § 54.405 by removing paragraph (e)(7);

§ 54.409 [Amended]

■ 4. Amend § 54.409 by removing paragraph (a)(4).

§ 54.410 [Amended]

■ 5. Amend § 54.410 by removing paragraph (j).

§ 54.424 [Amended]

■ 6. Amend § 54.424 by removing paragraph (c).

§ 54.1800 [Amended]

■ 7. Amend § 54.1800 by removing paragraph (j)(7).

[FR Doc. 2024–18938 Filed 8–28–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 240821–0223]

RIN 0648–BM86

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Changes to Purse Seine Fish Aggregating Device Closure Periods

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: Under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act), NMFS issues this final rule to shorten the duration of fish aggregating device (FAD) closure periods for the U.S. purse seine fishery. This action is necessary to satisfy the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), to which it is a Contracting Party.

DATES: This rule is effective August 29, 2024.

ADDRESSES: Copies of supporting documents prepared for this final rule, including the regulatory impact review (RIR), as well as the proposed rule (89 FR 46352, May 29, 2024), are available via the Federal e-rulemaking Portal, at *https://www.regulations.gov* (search for Docket ID NOAA–NMFS–2024–0057). Those documents are also available from NMFS at the following address: Sarah Malloy, Deputy Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

A final regulatory flexibility analysis (FRFA) prepared under authority of the Regulatory Flexibility Act is included in the ''Classification'' section in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, NMFS PIRO, 808–725–5033.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 2024, NMFS published a proposed rule in the **Federal Register** (89 FR 46352) proposing to change the duration of FAD closure periods for the U.S. purse seine fishery operating in the western and central Pacific Ocean (WCPO). The 15-day public comment period for the proposed rule closed on June 13, 2024.

This final rule is issued under the authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), which authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC or Commission). The WCPFC Implementation Act further provides that the Secretary of Commerce shall ensure consistency, to the extent practicable, of fishery management programs administered under the WCPFC Implementation Act and the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1801 *et seq.*), as well as other specific laws (see 16 U.S.C. 6905(b)). The Secretary of Commerce has delegated the authority to promulgate regulations under the WCPFC Implementation Act to NMFS. A map showing the boundaries of the area of application of the Convention (Convention Area), which comprises the majority of the WCPO, can be found on the WCPFC website at: *www.wcpfc.int/doc/convention-area-map.*

This final rule implements specific provisions of a recent WCPFC decision (Conservation and Management Measure (CMM) 2023–01, ''Conservation and Management Measure for Bigeye, Yellowfin and Skipjack Tuna in the Western and Central Pacific Ocean''). The preamble to the proposed rule provides background information on the Convention and the Commission, the provisions that are being implemented in this rule, and the basis for the regulations, which is not repeated here.

The Action

The specific elements of the final rule are detailed below.

In accordance with CMM 2023–01, the final rule shortens the duration of the FAD prohibition period to extend from July 1 through August 15 (instead of from July 1 through September 30, as previously required) during each calendar year in the Convention Area between the latitudes of 20° N and 20° S (inclusive of the exclusive economic zones (EEZs) and high seas in the Convention Area and excluding the area of overlap between the WCPFC and the Inter-American Tropical Tuna Commission (IATTC)). Regarding the additional one-month FAD prohibition period on the high seas in the Convention Area, the final rule implements the high seas FAD prohibition period in December in 2024 and during each calendar year thereafter.

As currently defined in 50 CFR 300.211, a FAD is ''any artificial or natural floating object, whether anchored or not and whether situated at the water surface or not, that is capable of aggregating fish, as well as any object used for that purpose that is situated on board a vessel or otherwise out of the water. The definition of FAD does not include a vessel.'' Under this final rule, the regulatory definition of a FAD will not change. Although the definition of a FAD does not include a vessel, the restrictions during the FAD prohibition periods include certain activities related to fish that have aggregated in association with a vessel, or drawn by a vessel, as described below.

The prohibitions applicable to these FAD-related measures are in existing regulations at 50 CFR 300.223(b)(1)(i)–

(v). Specifically, during the FAD prohibition periods in each calendar year, owners, operators, and crew of fishing vessels of the United States equipped with purse seine gear shall not do any of the following activities in the Convention Area (excluding the area of overlap between the WCPFC and IATTC) between 20° N latitude and 20° S latitude:

(1) Set a purse seine around a FAD or within 1 nautical mile (1,852 meters) of a FAD;

(2) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous 8 hours, setting the purse seine in an area in which a FAD has been inspected or handled within the previous 8 hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel;

(3) Deploy a FAD into the water;

(4) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in association with a FAD, in the water or on a vessel while at sea, except that: a FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety; and a FAD may be removed from the water and if removed may be cleaned, provided that it is not returned to the water; or

(5) From a purse seine vessel or any associated skiffs, other watercraft or equipment, submerge lights under water, suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment, or direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew.

These prohibitions do not apply during emergencies as needed to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage.

The final rule also makes a technical correction regarding the area of application in 50 CFR 300.223(b)(3)(i) to explicitly state that the requirements regarding activating FADs apply in the Convention Area. The current regulatory text does not include the specific area of application.

Comments and Responses

NMFS received one comment letter on the proposed rule. The American Tunaboat Association (ATA), which represents owners and operators of U.S. purse seine fishing vessels, expressed strong support for the proposed rule. ATA also noted that though it currently prefers that the high seas FAD closure occur in December in 2024, it is possible that the fleet's preference could change in the future. In addition, ATA noted that the Commission's decision in CMM 2023–01 to reduce the FAD closures was precautionary in reducing the existing FAD closures by one-half. According to ATA, during the discussion at the Commission meeting, there was a strong argument that the FAD closures could be eliminated in their entirety without jeopardizing the health of the marine resources in question.

NMFS acknowledges the comment from ATA and the information provided. NMFS is finalizing the high seas closure in December for 2024 and each subsequent year, as proposed. NMFS is implementing the Commission's decision as specified in CMM 2023–01 to fulfill the obligations of the United States under the Convention and has considered available biological and scientific information.

Changes From the Proposed Rule

There are no changes to the proposed rule in this final rule.

Classification

The Administrator, Pacific Islands Region, NMFS, has determined that this action is consistent with the WCPFC Implementation Act and other applicable laws.

Administrative Procedure Act

Consistent with 5 U.S.C. 553(d)(1), this final rule will become effective immediately upon publication because it is a substantive rule which relieves a regulatory restriction (*i.e.,* shortens existing purse seine FAD closure periods).

Coastal Zone Management Act (CZMA)

NMFS determined that this action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of American Samoa, the CNMI, Guam, and the State of Hawaii. Determinations to Hawaii and each of the Territories were submitted on March 8, 2024, for review by the responsible state and territorial agencies under section 307 of the CZMA. The Hawaii Coastal Zone Management Program responded on March 12, 2024, stating that because the U.S. WCPO purse seine fishery operates outside the jurisdiction of its enforceable policies, it would not be reviewing the consistency determination. Guam requested supplemental information that NMFS provided on March 28, 2024. The CNMI replied by letter dated May 7, 2024, stating that it concurs that the action is consistent with the enforceable policies of CNMI's coastal management program. Guam replied by letter dated May 28, 2024, stating that based on the information provided, it concurs that the action will be consistent with the enforceable policies of Guam's Coastal Management Program. No response was received from American Samoa, and thus, concurrence with the respective consistency determinations is presumed (15 CFR 930.41).

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act (RFA)

A FRFA was prepared, as required by section 604 of the RFA. The FRFA incorporates the initial regulatory flexibility analysis (IRFA) prepared for the proposed rule. The analysis in the IRFA is not repeated here in its entirety. A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** section of the preamble and in other sections of this **SUPPLEMENTARY INFORMATION** section of the preamble. The analysis follows:

Significant Issues Raised by Public Comments in Response to the IRFA

NMFS did not receive any comments specifically on the IRFA or on the economic impacts of the rule more generally.

Description of Small Entities to Which the Rule and Specifications Will Apply

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

The final rule would apply to owners and operators of U.S. commercial purse seine fishing vessels used to fish for highly migratory species in the

Convention Area. Based on the number of U.S. purse seine vessels with WCPFC Area Endorsements, which are required to fish on the high seas in the Convention Area, the estimated numbers of affected purse seine fishing vessels is 13.

Based on limited financial information about the affected fishing fleets, and using individual vessels as proxies for individual businesses, NMFS believes 62 percent of the vessels in the purse seine fleet are small entities as defined by the RFA (*i.e.,* they are independently owned and operated and not dominant in their fields of operation, and have annual receipts of no more than $11.0 million). Within the purse seine fleet, analysis of average revenue, by vessel, for 2021–2023 reveals that average annual revenue among vessels in the fleet was about $10 million (NMFS unpublished data combined with price data from the Pacific Island Forum Fisheries Agency and *https://investor.thaiunion.com/raw_material.html* accessed on July 29, 2024), and 8 participating vessels qualified as small entities, with estimated vessel revenue of less than $11 million (based on the average revenue across the most recent 3 years of data used).

Recordkeeping, Reporting, and Other Compliance Requirements

The reporting, recordkeeping and other compliance requirements of this final rule are described earlier in the ''Action'' sub-section of the **SUPPLEMENTARY INFORMATION** section of the preamble. The classes of small entities subject to the requirements and the types of professional skills necessary to fulfill the requirements are described below.

The FAD restrictions being implemented under the final rule would not establish any new reporting or recordkeeping requirements. The new requirement would be for affected vessel owners and operators to comply with the FAD restrictions described earlier in the **SUPPLEMENTARY INFORMATION** section of the preamble, including FAD prohibition periods throughout the Convention Area from July 1 through August 15 in each calendar and FAD prohibition periods just on the high seas in the Convention Area from December 1 through December 31 in each calendar year. The final rule would reduce the current FAD prohibitions periods by 50 percent in terms of duration.

Fulfillment of the element's requirements is not expected to require any professional skills that the vessel owners and operators do not already possess. The costs of complying with the requirements are described below to the extent possible.

The FAD restrictions would substantially constrain the manner in which purse seine fishing could be conducted in the specified areas and periods in the Convention Area compared to the no-action alternative of no closure periods in place at all; in those areas and during those periods, vessels would be able to set only on free, or ''unassociated,'' schools.

With respect to the one and a half month FAD closure throughout the Convention Area, assuming that sets would be evenly distributed through the year, the number of annual FAD sets would be expected to be about 87.5 percent of the number that would occur without a seasonal FAD closure, and 12.5 percent more than during the existing 3-month FAD closure. This is calculated by assuming FAD setting would occur at the same rate throughout the year and that a one and half month closure would lead to FAD setting for 10.5 out of 12 months of the year instead of for the full 12 months (*i.e.,* 87.5 percent of the year). The existing 3-month closure currently leads to FAD setting for 9 out of 12 months of the year instead of the full 12 months (*i.e.,* 75 percent of the year).

With respect to the additional 1-month high seas FAD closure, the effects of this element are difficult to predict. CMM 2023–01 includes four options for the 1-month high seas FAD closure: April, May, November, or December. In 2018, NMFS analyzed the impacts of the two previous options included in earlier CMMs, which were the 2-month high seas FAD closure in April and May and the 2-month high seas FAD closure in November and December, using data from 2014–2017, and did not find any statistically significant differences between the average number of sets in high seas areas, or the number of FAD associated sets in the high seas across months. The earlier CMMs only included those two options for 2-month high seas FAD closures and did not include the four options for 1-month high seas FAD closures included in CMM 2023–01. However, NMFS did observe trends in the number of high seas and the number of FAD sets in the high seas areas that supported selection of the November-December FAD prohibition period. In particular, the number of FAD sets in the high seas areas were low during November and December due to fishing effort limits met prior to the end of the season. If the effort limit was reached prior to November, then the later prohibition period would have a lesser adverse direct economic impact on the U.S. purse seine fleet. The analysis also noted that unpredictable future conditions such as ex-vessel price and environmental conditions—could result in either closure period having a greater adverse direct economic impact on the fleet. In 2018–2023, NMFS chose to implement the 2-month high seas FAD closure in November-December, and in 2018, the high seas was closed from September 19–December 31, and in 2019, the U.S. EEZ and the high seas were closed from October 9–November 28 and from December 9–31. Thus, in 2018 and for most of 2019, the 2-month high seas FAD closure had little to no additional impacts due to the closures from the fishing effort limits already being reached. Similarly, for 2024–2026, if the high seas are closed to all purse seine fishing towards the end of the year as a result of the fishing effort limit being reached, the high seas FAD closure during either November or December would have no additional effect whatsoever. In that situation, given that any closure would likely occur later in the year, implementing the 1-month closure in December would be likely to have less effect than implementing the 1-month closure in November. However, if the high seas are not closed to fishing during the closure period, given the performance of the fleet in recent years, the prohibition on FAD setting would make the high seas less favorable for fishing than they otherwise would be, since only unassociated sets would be allowed there, but it is not possible to characterize how influential that factor would be. Thus, it is not possible to predict the effects in terms of the spatial distribution of fishing effort or the proportion of fishing effort that is made on FADs.

With respect to both the one and a half month FAD closure and 1-month additional high seas FAD closure compared to the no-action alternative of no FAD closures in place at all, as for the limits on fishing effort, vessel operators might choose to schedule their routine maintenance periods so as to take best advantage of the available opportunities for making FAD sets (*e.g.,* during the FAD closures). However, the limited number of vessel maintenance facilities in the region might constrain vessel operators' ability to do this.

Vessels in the U.S. WCPO purse seine fleet make both unassociated sets and FAD sets when not constrained by regulation, so one type of set is not always more valuable or efficient than the other. Which set type is optimal at any given time is a function of immediate conditions in and on the water. Other factors, such as fuel prices

(unassociated sets involve more searching time and thus tend to bring higher fuel costs than FAD sets) and market conditions (*e.g.,* FAD fishing, which tends to result in greater catches of lower-value skipjack tuna and smaller yellowfin tuna and bigeye tuna than unassociated sets, might be more attractive and profitable when canneries are not rejecting small fish) also contribute to whichever set type is optimal at a given time. Clearly, the ability to do either type of set is valuable, and constraints on the use of either type can be expected to bring adverse economic impacts to fishing operations. Thus, the greater the constraints on the ability to make FAD sets, the greater the expected economic impacts of the action. Because the factors affecting the relative value of FAD sets and unassociated sets are many, and because the relationships among them are not well known, it is not possible to quantify the expected economic impacts of the FAD restrictions. However, it appears reasonable to conclude two points. First, the FAD restrictions would adversely impact producer surplus relative to the no-action alternative of no FAD prohibition periods in place. The fact that the fleet has made such a substantial portion of its sets on FADs in the past indicates that prohibiting the use of FADs in the specified areas and periods could bring substantial costs and/or revenue losses. Second, vessel operators might be able to mitigate the impacts of the FAD restrictions by scheduling their routine vessel and equipment maintenance during the FAD closures, but this opportunity might be constrained by the limited vessel maintenance facilities in the region.

Compared to the second no-action alternative or status quo alternative of FAD prohibition periods that would be twice as long as the FAD prohibition periods that would be implemented under the final rule, any adverse effects would be proportionally reduced. Thus the adverse effects in terms of costs and revenue losses would be less under the final rule than under the status quo no-action alternative.

Disproportionate Impacts

In the purse seine fishing sector, approximately 62 percent of the affected entities are small entities, so disproportionate impacts would not be expected. The direct effect of the final rule would be to constrain fishing effort, as compared to the no-action alternative of no closure periods in place at all, by purse seine fishing vessels, with consequent constraining effects on both revenues (because catches would be less) and operating costs (because less fishing would be undertaken). Although some purse seine fishing entities are larger than others, NMFS is not aware of any differences between the small entities and the large entities (as defined by the RFA) in terms of their capital costs, operating costs, or other aspects of their businesses. Accordingly, there is no information to suggest that the direct adverse economic impacts on small purse seine entities would be disproportionately greater than those on large purse seine entities. However, the direct effect of the final rule would be to reduce constraints on fishing effort, as compare to the status quo no-action alternative, by purse seine fishing vessels.

Duplicating, Overlapping, and Conflicting Federal Regulations

NMFS has not identified any Federal regulations that duplicate, overlap with, or conflict with the regulations.

Alternatives to the Final Rule

NMFS has sought to identify alternatives that would minimize the final rule's economic impacts on small entities (*i.e.,* significant alternatives). Taking the no-action alternative of no FAD prohibition periods could result in lesser adverse economic impacts than the action for affected entities, but NMFS does not prefer this no-action alternative, because it would be inconsistent with the United States' obligations under the Convention. Taking the no-action alternative of retaining the status quo FAD prohibition periods that are twice as long in duration could result in greater adverse economic impacts than the action for affected entities. This alternative would also be inconsistent with the United States' obligations under the Convention. Alternatives identified for the final rule are discussed below.

NMFS considered in detail the timing of the additional 1-month FAD closure for the high seas. CMM 2023–01 allows members to choose either April, May, November, or December, as the additional month for the high seas FAD closure. NMFS has compared the expected direct economic impacts of these four options (implementing a high seas FAD closure in April, May, November, or December) on purse seine fishing businesses in the RIR prepared at the proposed rule stage, by analyzing two discrete alternatives. Due to the similarities between implementing the high seas FAD closure in April or May (a spring closure) or in November or December (a winter closure), the RIR analyzed the impacts of implementing the closure in April or May as compared to November or December. The analysis finds a closure later in the year—a December closure—is more likely to have a lesser direct economic impact on those businesses for the following reasons: because the later closure period is more likely to run concurrently with a closure of the high seas in the Convention Area to purse seine fishing (if the fishing effort limits are reached), in which case the FAD closure would bring no additional economic impacts.

Paperwork Reduction Act

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. NMFS has prepared a small entity compliance guide for this rule, and will send copies of the guide to U.S. purse seine vessel permit holders. The guide and this final rule also will be available via the Federal e-rulemaking Portal, at *https://www.regulations.gov* (search for ID NOAA–NMFS–2024–0057) and by request from NMFS PIRO (see **ADDRESSES**).

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: August 21, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 300 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

■ 1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 2. In § 300.223, revise paragraphs (b)(2) and (b)(3)(i) to read as follows:

§ 300.223 Purse seine fishing restrictions.

* * * * *

(b) * * *

(2) The requirements of paragraph (b)(1) of this section shall apply:

(i) From July 1 through August 15, in each calendar year;

(ii) In any area of high seas, from December 1 through December 31, in each calendar year.

(3)(i) *Activating FADs for purse seine vessels.* A vessel owner, operator, or crew of a fishing vessel of the United States equipped with purse seine gear shall turn on the tracking equipment of an active FAD while the FAD is onboard the vessel and before it is deployed in the water in the Convention Area.

* * * * *

[FR Doc. 2024–19196 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 231215–0305; RTID 0648–XE235]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From North Carolina to Rhode Island

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2024 commercial summer flounder quota to the State of Rhode Island. This adjustment to the 2024 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2024 commercial quotas for North Carolina and Rhode Island.

DATES: Effective August 28, 2024 through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Caroline Potter, Fishery Resource Management Specialist, (978) 281–9325.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102, and the final 2024 allocations were published on December 21, 2023 (88 FR 88266).

The final rule implementing amendment 5 to the FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: (1) the transfers or combinations would not preclude the overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

North Carolina is transferring 12,120 pounds (lb; 5,498 kilograms (kg)) to Rhode Island through a mutual agreement between the states. This transfer was requested to repay landings made by an out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for 2024 are: North Carolina, 2,341,075 lb (1,061,894 kg); and Rhode Island, 1,394,426 lb (632,501 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.102(c)(2)(i) through (iv), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempted from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 26, 2024.

Lindsay Fullenkamp,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2024–19464 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 240826–0226; RTID 0648–XD769]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2024–2026 Small-Mesh Multispecies Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS approves and implements final small-mesh multispecies specifications for the 2024 fishing year, and projected specifications for fishing years 2025 and 2026. This action is necessary to establish allowable harvest levels and other management measures consistent with the most recent scientific information. This rule informs the public of these final fishery specifications for the 2024 fishing year.

DATES: Effective September 30, 2024.

ADDRESSES: The New England Fishery Management Council prepared an environmental assessment (EA) for these specifications that describes the action and other considered alternatives. The EA provides: an analysis of the biological, economic, and social impacts of the preferred measures and other considered alternatives; a Regulatory Impact Review; and an economic analysis. Copies of these specifications, including the EA, Regulatory Flexibility Act Analyses, and other supporting documents for the action are available upon request from Dr. Cate O'Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also accessible via the internet at: *https://www.nefmc.org/library/2024-2026-small-mesh-multispecies-whiting-specifications.*

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Policy Analyst, (978) 282–8456.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council (Council) manages the small-mesh multispecies fishery within the Northeast Multispecies Fishery Management Plan (FMP). The small-mesh multispecies fishery is made up of three species of hakes that are

managed as five stocks: (1) Northern and southern silver hake; (2) northern and southern red hake; and (3) offshore hake. Southern silver hake and offshore hake are often grouped together for management purposes and collectively referred to as ''southern whiting.'' Amendment 19 to the FMP (April 4, 2013, 78 FR 20260) established a process for specifying catch limits for the small-mesh multispecies fishery stocks, including values for an overfishing limit (OFL), acceptable biological catch (ABC), annual catch limit (ACL), and total allowable landings (TAL). The FMP requires that this specifications process be implemented on an annual basis for up to 3 years at a time with each fishing year running from May 1 through April 30.

This action implements catch limit specifications for the 2024 small-mesh multispecies fishery and announces final specifications for fishing years 2025 and 2026 based primarily on the Council's recommendations. This rule implements the Council's recommended catch limits for northern silver hake, southern whiting, and northern red hake. Pursuant to section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), this rule implements an ABC for southern red hake that is 25 percent lower than the Council's recommendation in order to comply with the requirements established in Framework Adjustment 62 to the Northeast Multispecies FMP (87 FR 3694, January 25, 2022).

Framework 62 established a rebuilding plan for southern red hake that requires the ABC be set to 75 percent of the fishing mortality rate at maximum sustainable yield (F_{MSY}). However, the OFL for red hake has been unknown since the spring of 2020, when a peer review of the management track assessment rejected a new empirical approach that would have updated the reference points for the stock. The peer review further stated that the current index-based method was inappropriate moving forward. Based on this, the Council set the 2021–2023 specifications to reduce the ABC to equal 75 percent of F_{MSY}. At its October 27, 2023, meeting, the Council's Scientific and Statistical Committee (SSC) met to discuss the specifications for small-mesh multispecies stocks. When setting the ABC for southern red hake, the SSC did not reduce the recommended ABC as required by Framework 62. The SSC's rationale for that decision was that, although exploitation is low, the low stock biomass may be a result of reduced stock productivity producing weak year classes and that the recommended ABC is not likely to result in overfishing and will support rebuilding goals for the stock. Based on the SSC's rationale, the Council submitted recommended specifications without the required reduction. This rule implements an ABC that complies with the rebuilding plan for southern red hake. The fishery has not landed more than 76 percent of the proposed total allowable landings; therefore, we do not anticipate that this additional reduction to the ACL would impact the fishery as a whole.

Final Specifications

This action implements the 2024 and provides the projected 2025–2026 small-mesh multispecies catch specifications, based largely on the Council's recommendations, with the southern red hake specifications adjusted as required by the rebuilding plan. The final catch limits increase annual quotas for northern silver hake and decrease the quota for southern whiting and both red hake stocks (table 1). Specifications for fishing years 2025 and 2026 are projected to be the same as the 2024 limits. These specifications are based on the most recent assessment update using the best scientific information available.

TABLE 1—SMALL-MESH MULTISPECIES SPECIFICATIONS FOR FISHING YEARS 2024–2026 (IN METRIC TONS (mt)), WITH THE PERCENT CHANGE IN THE ACL FROM FISHING YEAR 2023

	OFL	ABC	ACL	TAL	ACL percent change from 2023
Northern Red Hake	Unknown	3,129	2,973	1,274	−9
Northern Silver Hake	79,473	40,868	38,825	31,347	+100
Southern Red Hake	Unknown	**1,370	1,301	234	−9
Southern Whiting*	35,419	20,149	19,142	13,881	−51

*Southern whiting includes both southern silver hake and offshore hake.
**The Council recommended ABC was 1,826 mt, a 21-percent increase from 2023.

The Council did not recommend changes to any other regulations for the small-mesh multispecies fishery. Therefore, all other fishery management measures remain unchanged under the final action. The Council will review the projected 2025 and 2026 specifications to determine if any changes need to be made prior to their final implementation. Changes may occur if quota overages trigger accountability measures, or if new stock information results in changes to the ABC recommendations. We will publish a notice prior to the 2025 fishing year to confirm the specifications or announce any necessary changes.

Comments and Responses

The proposed rule for this action was published in the **Federal Register** on July 22, 2024 (89 FR 59034), and comments were accepted through August 6, 2024. NMFS received one relevant comment on the proposed rule from the Council. The Council commented in support of the rule with the request that we correct the northern red hake TAL in the rule's preamble to reflect its recommended TAL. The Council also acknowledged our requirement to adjust the southern red hake ABC to meet the requirements of the rebuilding plan, even though it was not the Council's recommended ABC. NMFS has corrected the northern red hake TAL to reflect the Council's recommendation and that change is reflected in both the body of the rule and in the section below. NMFS also acknowledges the Council's justifications for why it did not reduce the ABC for southern red hake and appreciates its understanding in NMFS' obligation to reduce the ABC by 25 percent in order to fulfill the legal requirements outlined under the rebuilding plan in Framework 62.

Changes From the Proposed Rule

There was one change from the proposed rule addressing the TAL for northern red hake. We inadvertently listed the TAL as 213 metric tons (mt)

in table 1 instead of 1,274 mt. The correction to implement a 1,274 mt TAL in this final rule is consistent with the Council's recommended TAL.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that these final specifications are necessary for the conservation and management of the small-mesh multispecies fishery, and that they are consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none was prepared.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action contains no information collection requirements under the Paperwork Reduction Act of 1995.

Dated: August 26, 2024.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2024–19435 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 240304–0068; RTID 0648–XD941]

Fisheries of the Exclusive Economic Zone Off Alaska; Blackspotted and Rougheye Rockfish in the Central Aleutian and Western Aleutian Districts of the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of blackspotted and rougheye rockfish in the Central Aleutian and Western Aleutian districts (CAI/WAI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2024 blackspotted and rougheye rockfish total allowable catch (TAC) in the CAI/WAI of the BSAI has been reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), August 26, 2024, through 2400 hours, A.l.t., December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subparts H of 50 CFR part 600 and 50 CFR part 679.

The 2024 blackspotted and rougheye rockfish TAC in the CAI/WAI of the BSAI is 181 metric tons as established by the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024). The Administrator for the Alaska Region of NMFS has determined that the 2024 blackspotted and rougheye rockfish TAC in the CAI/WAI of the BSAI has been reached. Therefore, in accordance with § 679.20(d)(2), NMFS is requiring that blackspotted and rougheye rockfish in the CAI/WAI of the BSAI be treated in the same manner as a prohibited species, as described under § 679.21(a), for the remainder of the year, except blackspotted and rougheye rockfish species in the CAI/WAI caught by catcher vessels using hook-and-line, pot, or jig gear as described in § 679.20(j).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the prohibited retention of blackspotted and rougheye rockfish in the CAI/WAI of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 23, 2024.

The Assistant Administrator for Fisheries of NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 26, 2024.

Lindsay Fullenkamp,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2024–19419 Filed 8–26–24; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 168
Thursday, August 29, 2024

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1282

RIN 2590–AB34

2025–2027 Enterprise Housing Goals

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is issuing a proposed rule and requesting comments on the housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2025 through 2027 as required by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. The housing goals and subgoals include separate categories for single-family and multifamily mortgages on housing affordable to low-income and very low-income families, among others. The proposed rule also includes criteria for when housing plans would be required for 2025–2027, and it makes several technical changes to enhance clarity and conform the regulation to existing practice.

DATES: FHFA will accept written comments on the proposed rule on or before October 28, 2024.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AB34, by any one of the following methods:

- *Agency Website: https://www.fhfa.gov/regulation/federal-register?comments=open.*
- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB34.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB34, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m. EST.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB34, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact *MediaInquiries@FHFA.gov.* For technical questions, please contact Ted Wartell, Associate Director, Housing & Community Investment, Division of Housing Mission and Goals, (202) 649–3157, *Ted.Wartell@fhfa.gov;* Padmasini Raman, Supervisory Policy Analyst, Housing & Community Investment, Division of Housing Mission and Goals, (202) 649–3633, *Padmasini.Raman@fhfa.gov;* or Carey Whitehead, Assistant General Counsel, (202) 649–3630, *Carey.Whitehead@fhfa.gov.* These are not toll-free numbers. The mailing address is: Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments into consideration before issuing a final rule. Comments will be posted to the electronic rulemaking docket on the FHFA public website at *https://www.fhfa.gov,* except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA's internal rulemaking file and considered as required by all applicable laws. Commenters that would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings,* see *https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf.* FHFA cannot guarantee that such data or information, or the identity of the commenter, will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. *See* 12 CFR 1202.8, 12 CFR 1214.2, and the FHFA *FOIA Reference Guide* at *https://www.fhfa.gov/about/foia-reference-guide* for additional information.

II. Background

A. Statutory and Regulatory Background for Enterprise Housing Goals

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) requires FHFA to establish several annual housing goals for both single-family and multifamily mortgages purchased by the Enterprises.[1] The annual housing goals are one measure of the extent to which the Enterprises are meeting their public purposes, which include ''an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return.'' [2]

Since 2010, FHFA has established annual housing goals for Enterprise purchases of single-family and multifamily mortgages consistent with the requirements of the Safety and Soundness Act. The structure of the housing goals and the parameters for determining how mortgage purchases are counted or not counted are defined in the housing goals regulation.[3] The most recent amendments to the housing goals regulation were a final rule published in 2021 to establish benchmark levels for the 2022–2024 single-family housing goals and the 2022 multifamily housing goals, and a final rule published in 2022 to establish benchmark levels for the 2023–2024 multifamily housing goals.[4] This proposed rule would establish benchmark levels for the single-family and multifamily housing goals for 2025–2027.

Single-family housing goals. The single-family housing goals defined under the Safety and Soundness Act include separate categories for home purchase mortgages for low-income families, very low-income families, and families that reside in low-income areas.[5] For purposes of the single-family housing goals, families that reside in low-income areas [6] include: (1) families in low-income census tracts, defined as census tracts with median income less than or equal to 80 percent of area median income (AMI); [7] (2) families with incomes less than or equal to 100 percent of AMI who reside in minority census tracts (defined as census tracts with a minority population of at least 30 percent and a tract median income of less than 100 percent of AMI); [8] and (3) families with incomes less than or equal to 100 percent of AMI who reside in designated disaster areas.[9] The Enterprise housing goals regulation also includes subgoals, within the low-income areas housing goal, that focus on single-family housing occupied by families in low-income census tracts and moderate-income families in minority census tracts.[10] Performance on the single-family home purchase goals and subgoals is measured as the percentage of the total home purchase mortgages purchased by an Enterprise each year that qualify for each goal or subgoal. There is also a separate goal for single-family refinance mortgages for low-income families, and performance on the refinance goal is determined in a similar way.

Under the Safety and Soundness Act, the single-family housing goals are limited to mortgages on owner-occupied housing with one to four units. The single-family goals cover first lien, conventional, conforming mortgages, meaning mortgages that are not subordinate to other mortgage liens, that are not insured or guaranteed by the Federal Housing Administration or another government agency, and that have principal balances that do not exceed the conforming loan limits for Enterprise mortgages.

Two-part evaluation approach for single-family housing goals. The Enterprises' performance on the single-family housing goals is evaluated using a two-part approach that compares the goal-qualifying share of each Enterprise's mortgage purchases to two separate measures: a benchmark level and a market level. To meet a single-family housing goal, the percentage of mortgage purchases by an Enterprise that qualifies for credit under each goal must equal or exceed either the benchmark level or the market level for that year. The benchmark level is set prospectively by rulemaking based on various factors set forth in the Safety and Soundness Act.[11] The market level is determined retrospectively for each year, based on the actual goal-qualifying share of the overall market as measured by the Home Mortgage Disclosure Act [12] (HMDA) data for that year. The overall market that FHFA uses for setting both the prospective benchmark level and the retrospective market level consists of all single-family, owner-occupied, conventional, conforming mortgages that would be eligible for purchase by either Enterprise. It includes loans purchased by the Enterprises as well as comparable loans held in a lender's portfolio. It also includes any loans that are part of a private label security (PLS), although few such securities have been issued for conventional conforming mortgages since 2008. Since 2018, several new HMDA data fields have become available. FHFA continues to monitor reporting of these new fields to consider potential adjustments to the way FHFA measures the overall market. Because FHFA's econometric market models use past years' data to construct the models, a potential transition to incorporate any new data variables will require time to obtain an adequate input data series.

While the retrospective market levels measure mortgage originations in a particular year, the performance of the Enterprises on the housing goals includes all Enterprise purchases in that year, regardless of the year in which the loan was originated. This includes any loans that are originated in one year and purchased by an Enterprise in a later year.

Multifamily housing goals. The multifamily housing goals defined under the Safety and Soundness Act include separate categories for mortgages on multifamily properties (properties with five or more units) with rental units affordable to low-income and very low-income families. The Safety and Soundness Act also requires reporting on smaller properties, and the Enterprise housing goals regulation includes a small multifamily low-income subgoal for properties with 5–50 units. The multifamily housing goals include all Enterprise multifamily mortgage purchases, regardless of the purpose of the loan. The multifamily housing goals evaluate the performance of the Enterprises based on the share of affordable units in properties backed by mortgages purchased by an Enterprise. The Enterprise housing goals regulation does not include a retrospective market level measure for the multifamily housing goals, due in part to a lack of

[1] 12 U.S.C. 4561(a).

[2] 12 U.S.C. 4501(7).

[3] 12 CFR part 1282.

[4] *See* 86 FR 73641 (Dec. 28, 2021), 87 FR 78837 (Dec. 23, 2022). The 2021 final rule departed from historical FHFA practice of establishing single-family and multifamily housing goals at three-year intervals. As stated in the preamble to the 2021 final rule, this choice was motivated by the unique market conditions created by the COVID–19 pandemic.

[5] 12 U.S.C. 4562(a)(1).

[6] *See* 12 U.S.C. 4502(28); 12 CFR 1282.1 (definition of ''families in low-income areas'').

[7] 12 CFR 1282.1 (par. (i) of definition of ''families in low-income areas'').

[8] 12 U.S.C. 4502(29); 12 CFR 1282.1 (par. (ii) of definition of ''families in low-income areas'' and definition of ''minority census tract'').

[9] 12 U.S.C. 4502(28); 12 CFR 1282.1 (definition of ''designated disaster area'' and par. (iii) of definition of ''families in low-income areas'').

[10] 12 CFR 1282.12(f).

[11] *See* 12 U.S.C. 4562(e).

[12] 12 U.S.C. 2801 *et seq.*

comprehensive data about the multifamily market. As a result, FHFA currently measures Enterprise multifamily housing goals performance against the benchmark levels only.

The Safety and Soundness Act requires that affordability for rental units under the multifamily housing goals be determined based on rents that ''[do] not exceed 30 percent of the maximum income level of such income category, with appropriate adjustments for unit size as measured by the number of bedrooms.'' [13] The Enterprise housing goals regulation considers the net rent paid by the renter, *i.e.,* the rent is decreased by any subsidy payments that the renter may receive, including housing assistance payments.[14]

B. Adjusting the Housing Goals

If, after publication of the final rule establishing the Enterprise housing goals for 2025–2027, new information indicates that any of the single-family or multifamily housing goals are not feasible in light of market conditions or the safety and soundness of the Enterprises, or for any other reason, FHFA may take any steps that are necessary and appropriate to respond, consistent with the Safety and Soundness Act and the Enterprise housing goals regulation.

For example, under the Safety and Soundness Act and the Enterprise housing goals regulation, FHFA is permitted to reduce the benchmark levels in response to an Enterprise petition for reduction for any of the single-family or multifamily housing goals in a particular year based on a determination by FHFA that: (1) market and economic conditions or the financial condition of the Enterprise require a reduction; or (2) efforts to meet the goal or subgoal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of the Safety and Soundness Act or the purposes of the Enterprises' charter acts.[15]

The Safety and Soundness Act and the Enterprise housing goals regulation also consider the possibility that achievement of a particular housing goal may or may not have been feasible for an Enterprise. If FHFA determines that a housing goal was not feasible for an Enterprise to achieve, then the statute and regulation provide for no further enforcement of that housing goal for that year.[16]

If FHFA determines that an Enterprise did not meet a housing goal and that achievement of the housing goal was feasible, then the statute and regulation provide FHFA with discretionary authority to require the Enterprise to submit a housing plan describing the specific actions the Enterprise will take to improve its housing goals performance.

FHFA is proposing in § 1282.22 new criteria that would apply in assessing whether a housing plan would be required for certain single-family housing goals during the 2025–2027 housing goals period. The purpose of these ''Enforcement Factors,'' discussed below, is to encourage the Enterprises to focus on meeting the market levels rather than focusing exclusively on the housing goals benchmark levels in the event of unexpected disruptions to the market that occur after publication of the final rule.

C. Housing Goals Under Conservatorship

On September 6, 2008, FHFA placed each Enterprise into conservatorship. Although the Enterprises remain in conservatorship, they continue to have the mission of supporting a stable and liquid national market for residential mortgage financing. FHFA has continued to establish annual housing goals for the Enterprises and to assess their performance under the housing goals each year during conservatorship.

III. Summary of Proposed Rule

A. Benchmark Levels for the Single-Family Housing Goals and Subgoals

This proposed rule would establish the benchmark levels for the single-family housing goals for 2025–2027 as follows:

Goal or subgoal	Criteria	Proposed benchmark level for 2025–2027 (percent)
Low-Income Home Purchase Goal	Home purchase mortgages on single-family, owner-occupied properties, to borrowers with incomes no greater than 80 percent of area median income (AMI).	25
Very Low-Income Home Purchase Goal.	Home purchase mortgages on single-family, owner-occupied properties, to borrowers with incomes no greater than 50 percent of AMI.	6
Low-Income Refinance Goal	Refinance mortgages on single-family, owner-occupied properties, to borrowers with incomes no greater than 80 percent of AMI.	26
Minority Census Tracts Home Purchase Subgoal.	Home purchase mortgages on single-family, owner-occupied properties to borrowers with incomes no greater than 100 percent of AMI in minority census tracts [1].	12
Low-Income Census Tracts Home Purchase Subgoal.	(i) Home purchase mortgages on single-family, owner-occupied properties to borrowers (regardless of income) in low-income census tracts [2] that are not minority census tracts, and (ii) home purchase mortgages on single-family, owner-occupied properties to borrowers with incomes greater than 100 percent of AMI in low-income census tracts that are also minority census tracts.	4

[1] Census tracts that have a minority population of at least 30 percent and a median income of less than 100 percent of AMI.
[2] Census tracts where the median income is no greater than 80 percent of AMI.

The low-income areas housing goal benchmark level is not included in this proposed rule. Under the existing regulation, the benchmark level will be the sum of the benchmark levels for the minority census tracts subgoal and the low-income census tracts subgoal established above, plus an additional amount that will be determined separately by FHFA by notice that takes into account families in disaster areas with incomes no greater than 100 percent of AMI.[17]

[13] *See* 12 U.S.C. 4563(c). The 30 percent test for measuring affordability traces back to the ''Brooke Amendment,'' which amended the United States Housing Act of 1937 to cap public housing rents (Pub. L. 91–152). For purposes of the multifamily housing goals, to be affordable at the 80 percent of AMI level, the rents must not exceed 30 percent of the renter's income which must not exceed 80 percent of AMI. *See https://www.huduser.gov/portal/pdredge/pdr_edge_featd_article_092214.html* for a description of the Brooke Amendment and background on the notion of affordability embedded in the housing goals.

[14] *See* 12 CFR 1282.1 (par. (i)(B) of definition of ''rent'').

[15] *See* 12 CFR 1282.14(d).

[16] *See* 12 U.S.C. 4566(b); 12 CFR 1282.21(a).

[17] *See* 12 CFR 1282.12(e). The benchmark level for 2024 is 19 percent. The notices setting this benchmark level can be found on FHFA's website at *https://www.fhfa.gov/sites/default/files/2024-06/2024-Low-Income-Areas-Goal-Fannie-Mae.pdf* and *https://www.fhfa.gov/sites/default/files/2024-06/2024-Low-Income-Areas-Goal-Freddie-Mac.pdf.*

B. Proposed Benchmark Levels for the Multifamily Housing Goals and Subgoal and Clarification on Terminology

The proposed rule would establish the benchmark levels for the multifamily housing goals and subgoal for 2025–2027 as follows:

Goals and subgoal	Criteria	Proposed benchmark level for 2025–2027 (percent)
Low-Income Goal	Percentage share of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises in the year that are affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI.	61
Very Low-Income Goal	Percentage share of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises in the year that are affordable to very low-income families, defined as families with incomes less than or equal to 50 percent of AMI.	14
Small Multifamily Low-Income Subgoal.	Percentage share of all goal-eligible units in all multifamily properties financed by mortgages purchased by the Enterprises in the year that are units in small multifamily properties affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI.	2

This proposed rule also would revise the current regulation to refer to the multifamily very low-income housing benchmark level as a housing goal, instead of referring to it as a subgoal. The Safety and Soundness Act requires FHFA to establish additional requirements for units affordable to very low-income families when it establishes the goal for mortgages on multifamily properties that finance dwelling units affordable to low-income families.[18] Revising the text of the Enterprise housing goals regulation to refer to the multifamily very low-income housing goal as a ''goal'' is consistent with the Safety and Soundness Act, with the reference to the single-family very low-income home purchase benchmark level as a goal and not a subgoal, and with FHFA's own practice of referring to ''multifamily housing goals.''

C. Enforcement Factors

FHFA is proposing new criteria for the 2025–2027 housing goals period that clarify when housing plans would be required. Section 1282.22 would establish Enforcement Factors that FHFA will apply in determining whether to require a housing plan if an Enterprise fails to meet certain single-family housing goals in 2025 through 2027. FHFA expects that this proposal will provide guidance to the Enterprises should the market for the single-family low-income home purchase, very low-income home purchase, or low-income refinance segment turn out to be significantly lower than what is forecasted in this rule. FHFA is seeking public comment on all aspects of these Enforcement Factors.

FHFA is proposing this change because the mortgage market has experienced unexpected challenges that continue to produce uncertainty. Interest rates increased in 2022 and 2023, home prices remained elevated, and housing supply remained constricted, resulting in low mortgage loan volumes. Lender competition for the smaller number of loans escalated, and the Enterprises struggled to manage their acquisition mix to meet the benchmark levels for the low-income home purchase and very low-income home purchase housing goals. The 2022–2024 housing goals, which were designed to be ambitious in the rule that was finalized in 2021, were set in advance of these recent, unexpected market changes.

There remains a great deal of uncertainty with respect to the overall volume and composition of the mortgage market in 2025–2027. FHFA is proposing Enforcement Factors that would be considered when determining whether an Enterprise would be required to submit a housing plan if it fails to meet certain single-family housing goals in 2025–2027. FHFA expects that this will allow the Enterprises to focus on meeting or exceeding the expected market level as opposed to the benchmark level in the event that market levels are significantly below the benchmark level established in the regulation. Additionally, the Enforcement Factors should encourage the Enterprises to focus on estimating and forecasting the market levels for the different housing goals. Specifically, FHFA is proposing that for 2025–2027, if the benchmark level for a single-family housing goal is higher than the market level for the goal, an Enterprise that fails to meet the goal will not be required to submit a housing plan if the Enterprise's performance meets or exceeds: (i) the market level minus 1.3 percentage points for the low-income home purchase goal; (ii) the market level minus 0.5 percentage points for the very low-income home purchase goal; or (iii) the market level minus 1.3 percentage points for the low-income refinance goal. To ensure that an Enterprise does not rely entirely on these Enforcement Factors, if an Enterprise fails to meet one of the applicable goals in both 2025 and 2026, the Enforcement Factor would not apply to that goal in 2027.

D. Proposed Technical Changes

The proposed rule would make minor technical changes intended to better conform the regulation to statutory text and existing FHFA practices and procedures, as further discussed below. FHFA welcomes comments on these technical changes and any other technical changes or corrections that are necessary. FHFA may include additional technical changes or corrections in the final rule based on comments received.

The proposed rule would amend the definition of ''designated disaster area'' to reflect that major disasters are designated (declared) by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*).

The proposed rule also would make technical changes to consistently reference goals and subgoals. For example, in the current regulation, § 1282.11(a)(1) refers to the various housing goals, including one single-family subgoal, one multifamily special affordable housing goal, and two multifamily special affordable housing subgoals. The proposed rule would modify that paragraph to reference the two single-family, owner-occupied, purchase money mortgage housing subgoals. The proposed rule also would modify that paragraph to remove the words ''special affordable'' in each

[18] 12 U.S.C. 4563(a)(2).

reference to a multifamily housing goal or subgoal.

In addition, the proposed rule would make other, non-substantive changes to the enforcement provisions located at §§ 1282.20 and 1282.21 of the current Enterprise housing goals regulation. Section 1282.20 currently addresses both preliminary and final determinations of housing goals compliance and would be divided into two distinct sections: § 1282.20 would address preliminary determinations of housing goals compliance; and § 1282.21 would address final determinations of housing goals compliance. As proposed, these sections would include revised wording that conforms to FHFA's established practices.

Current § 1282.21 addresses housing plans and would accordingly be redesignated as § 1282.22 and amended to include the proposed Enforcement Factors provisions described above in paragraph (b). The provisions in current § 1282.21(b) through (e) would be relocated to proposed § 1282.22(c) through (f). Paragraph (f) would include technical changes to clarify that if a proposed amended housing plan is not acceptable to the Director, the Director may afford the Enterprise 15 days to submit additional amendments to its proposed plan for approval or disapproval, rather than requiring a ''new'' proposed plan.

Finally, the proposed rule would include a new provision at § 1282.22(g) that incorporates the housing plan enforcement provisions contained in the Safety and Soundness Act. This would provide that if the Director requires an Enterprise to submit a housing plan and the Enterprise refuses to submit such a plan, submits an unacceptable plan, or fails to comply with the plan, the Director may issue a cease and desist order in accordance with 12 U.S.C. 4581, impose civil money penalties in accordance with 12 U.S.C. 4585, or take any other action that the Director determines to be appropriate. While FHFA has authority to enforce the housing plans under the statutory authority in the Safety and Soundness Act whether or not these specific references are incorporated into the Enterprise housing goals regulation, incorporating the enforcement provisions would provide a more complete description of FHFA's enforcement authority. This would support the goal of transparency and make it easier for anyone unfamiliar with the Safety and Soundness Act to understand the potential consequences if an Enterprise fails to submit an acceptable housing plan or fails to comply with the plan as required.

IV. Single-Family Housing Goals and Subgoals

A. Factors Considered in Setting the Proposed Single-Family Housing Goal Benchmark Levels

The Safety and Soundness Act requires FHFA to consider the following seven factors in setting the single-family housing goals:

1. National housing needs;
2. Economic, housing, and demographic conditions, including expected market developments;
3. The performance and effort of the Enterprises toward achieving the housing goals in previous years;
4. The ability of the Enterprises to lead the industry in making mortgage credit available;
5. Such other reliable mortgage data as may be available;
6. The size of the purchase money conventional mortgage market, or refinance conventional mortgage market, as applicable, serving each of the types of families described, relative to the size of the overall purchase money mortgage market or the overall refinance mortgage market, respectively; and
7. The need to maintain the sound financial condition of the Enterprises.[19]

FHFA has considered each of these seven statutory factors in setting the proposed benchmark levels for each of the single-family housing goals and subgoals.

In setting the proposed benchmark levels for the single-family housing goals, FHFA typically relies on statistical market models developed by FHFA to evaluate many of these statutory factors, including national housing needs, the size of the market, and expected market developments. These market models generate a point forecast for each goal as well as a confidence interval for the point forecast. FHFA then considers other statutory factors, including the need to maintain the sound financial condition of the Enterprises, in proposing a specific benchmark level.

Market forecast models. The purpose of FHFA's market forecast models is to forecast the market share of the goal-qualifying mortgage originations for the 2025–2027 period. The models are intended to generate reliable forecasts rather than to test various economic hypotheses about the housing market or to explain the relationship between variables. Therefore, following standard practice among forecasters and economists at other federal agencies, FHFA estimates a reduced-form equation for each of the housing goals and fits an Autoregressive Integrated Moving Average (or ARIMA) model to each goal share. The models look at the statistical relationship between (a) the historical market share for each single-family housing goal or subgoal, as calculated from monthly HMDA data, and (b) the historical values for various factors that may influence the market shares, such as interest rates, inflation, home prices, home sales, the unemployment rate, and other factors. The models then project the future value of the affordable market share using forecast values of the model inputs. Separate models are developed for each of the single-family housing goals and subgoals.

FHFA has employed similar models in past Enterprise housing goals rulemaking cycles to generate market forecasts. The models are developed using monthly series generated from HMDA and other data sources, and the resulting monthly forecasts are then averaged into an annual forecast for each of the three years in the goal period. The models rely on 19 years of HMDA data, from 2004 to 2022, the latest year for which public HMDA data was available at the time of model construction. FHFA will update the models with HMDA data for 2023 when developing the final rule. Additional discussion of the market forecast models can be found in a research paper, available at *https://www.fhfa.gov/research/papers/2025-2027-enterprise-single-family-housing-goals.*[20]

Current market outlook. There are many factors that impact the affordable housing market, and changes to any of them could significantly impact the ability of the Enterprises to meet the goals. In developing the market models, FHFA used Moody's forecasts as the source for macroeconomic variables where available.[21] In cases where Moody's forecasts were not available (for example, the share of government-insured/guaranteed home purchases and the share of government-insured/guaranteed refinances), FHFA generated and tested its own forecasts as in past rulemakings.[22] Variables that impact the

[19] *See* 12 U.S.C. 4562(e)(2)(B).

[20] Details on FHFA's single-family market models will be available in the technical report ''The Size of the Affordable Mortgage Market: 2022–2024 Enterprise Single-Family Housing Goals.'' Available at *https://www.fhfa.gov/research/papers/2025-2027-enterprise-single-family-housing-goals.*

[21] *Ibid.*

[22] This refers to the mortgages insured or guaranteed by government agencies such as the

Continued

models and the determinations of benchmark levels, including interest rates, home prices, and the supply of affordable housing, are discussed below.

Interest rates are important determinants of the trajectory of financial markets, including the mortgage market. As Moody's notes in its February 2024 forecasts, the Federal Reserve has signaled that it may be at the end of its current tightening cycle. At its January 2024 meeting, the Federal Open Market Committee (FOMC) further signaled that it would consider rate cuts once inflation is moving sustainably towards the Federal Reserve's 2.0 percent inflation target. Moody's baseline scenario in February 2024 assumed that this will occur in mid-2024 and expected a 25 basis point cut in May, June, July, and December 2024. After that, Moody's baseline scenario expects that further rate cuts will be spread out over a longer period so that the Federal Funds rate for 2025, 2026, and 2027 will be 4.0 percent, 3.2 percent, and 2.9 percent, respectively. Thus, Moody's assumes that the FOMC will adjust monetary policy slowly as inflation eases slowly. The Consumer Price Index (CPI), which stood at 4.1 percent for 2023, is projected to be 2.7 percent in 2024, and is projected to decline to 2.2 percent by 2027. The unemployment rate is expected to gradually rise to 4.0 percent by the end of 2024, before peaking just above that in mid-2025. It is forecast to be 4.1 percent for 2025, before declining to 4.0 percent for 2026 and 2027.[23]

Home prices increased rapidly in 2021 and 2022 as indicated by FHFA's purchase-only House Price Index (HPI), due to a combination of high demand for housing resulting from demographic trends and limited supply of homes for sale.[24] The rapid rise in mortgage rates through 2022 and their stabilization at new elevated levels in 2023 slowed down the pace of house price growth. However, in 2023, the HPI remained high, with median existing home prices rising in 171 of 177 metro areas in the second quarter of 2023, and prices in the typical metro area increasing 9.0 percent during the quarter.[25] For future years, Moody's baseline scenario calls for a much more modest increase, with an annual rate of increase of 0.7 percent in 2024, followed by a slightly negative rate of growth of 1.0 percent in 2025, then modest increases (0.3 and 1.8 percent annual rates of increases in 2026 and 2027, respectively).[26]

The rise in the effective Federal Funds rate from 0.08 percent in January 2022 to 5.33 percent in July 2023 contributed to rapid increases in mortgage rates: for instance, the average 30-year fixed rate mortgage rate increased from 3.1 percent to 6.6 percent over the same period.[27] [28] Loan origination volume in mortgage markets declined as the demand for refinances decreased in the second half of 2022 and in 2023, along with significant declines in home purchase loan volume. For example, sales in August 2023 were down 15 percent from the previous year and more than 30 percent below peak levels in 2021.[29] Even though mortgage interest rates are forecast to decline modestly, many households are locked into low interest rates and are less likely to refinance. Hence, Moody's baseline scenario forecasts a slight decline in the refinance share between 2023 and 2024, before increasing gradually thereafter, reflecting the expectation that the average 30-year fixed rate mortgage rate will continue to be in the 5.9–6.1 percent range over 2025–2027.[30]

Taken together, the elevated mortgage interest rates and high home price levels likely will continue to impact the ability of low- and very low-income households to purchase homes. The median home price to median household income ratio, which is often used to measure affordability, rose to 5.6 in 2022, the highest point since the early 1970s. Since the beginning of the pandemic, the rise of home prices has been rapid in all parts of the country and especially so in metro areas. For example, in 2022, among the 100 largest metro areas in the county, 48 metro areas had home price to income ratios exceeding 5, compared to 2019 where only 15 markets had ratios above 5.[31] Additionally, this rise in home prices has been more rapid than the rise in median household incomes. Further indication of worsening affordability in the housing market can be seen in the second quarter of 2023, where monthly payments on median priced homes hit new record highs in 159 of the 177 markets that the National Association of Realtors (NAR) tracks for typical 30-year fixed rate mortgages obtained by first-time homebuyers.[32] As a result, between 2019 and 2021, the number of cost-burdened homeowners increased by 2.3 million households.[33] Housing affordability in 2023, as measured by Moody's forecast of NAR's Housing Affordability Index (HAI), was at its lowest level since 1989. This is projected to improve incrementally in 2025–2027.[34] [35]

The supply of affordable housing has not kept pace with the growth of demand.[36] This has led to a shortage of homes, which became more acute during the pandemic. According to a report by the Urban Institute, listings have fallen 44.7 percent since 2019, with the supply of homes under $200,000 (representing lower priced homes that are likely to be more affordable to low- and very low-income

Federal Housing Administration, Department of Veterans Affairs, and Rural Housing Service.

[23] Moody's Analytics, ''Economic Data and Forecasts,'' February 2024.

[24] FHFA, ''FHFA House Price Index Report—Monthly Report,'' July 2024, *available at https://www.fhfa.gov/sites/default/files/2024-07/FHFA-HPI-Monthly-07302024.pdf.*

[25] Daniel McCue, ''Home Prices and Interest Rates Still Rising, Shutting out More Potential Homebuyers'' Joint Center for Housing Studies of Harvard University, September 28, 2023, *available at https://jchs.harvard.edu/blog/home-prices-and-interest-rates-still-rising-shutting-out-more-potential-homebuyers.*

[26] Moody's Analytics, ''Economic Data and Forecasts,'' February 2024.

[27] ''Effective Federal Funds Rate—FEDERAL RESERVE BANK of NEW YORK,'' Federal Reserve Bank of New York, *available at https://www.newyorkfed.org/markets/reference-rates/effr.*

[28] ''Mortgage Rates,'' Freddie Mac, *available at https://www.freddiemac.com/pmms.*

[29] Daniel McCue, ''Home Prices and Interest Rates Still Rising, Shutting out More Potential Homebuyers,'' Joint Center for Housing Studies of Harvard University, September 28, 2023, *available at https://jchs.harvard.edu/blog/home-prices-and-interest-rates-still-rising-shutting-out-more-potential-homebuyers.*

[30] Moody's Analytics, ''Economic Data and Forecasts,'' February 2024.

[31] Alexander Hermann and Peyton Whitney, ''Home Price-To-Income Ratio Reaches Record High,'' Joint Center for Housing Studies of Harvard, January 22, 2024, *available at https://www.jchs.harvard.edu/blog/home-price-income-ratio-reaches-record-high-0.*

[32] Daniel McCue, ''Home Prices and Interest Rates Still Rising, Shutting out More Potential Homebuyers,'' Joint Center for Housing Studies of Harvard University,'' September 28, 2023, *available at https://jchs.harvard.edu/blog/home-prices-and-interest-rates-still-rising-shutting-out-more-potential-homebuyers.*

[33] ''The State of the Nation's Housing 2023,'' Joint Center for Housing Studies of Harvard University, 2023, p.6, *available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf.*

[34] Moody's Analytics, ''Economic Data and Forecasts,'' February 2024.

[35] NAR's HAI is a national index. It measures, nationally, whether an average family could qualify for a mortgage on a typical home. A typical home is defined as the national median-priced, existing single-family home as reported by NAR. An average family is defined as one earning the median family income. The calculation assumes a down payment of 20 percent of the home price and a monthly payment that does not exceed 25 percent of the median family income. An index value of 100 means that a family earning the median family income has exactly enough income to qualify for a mortgage on a median-priced home. An index value above 100 signifies that a family earning the median family income has more than enough income to qualify for a mortgage on a median-priced home. A decrease in the index value over time indicates that housing is becoming less affordable.

[36] Moody's Analytics, ''Economic Data and Forecasts,'' February 2024.

families) falling 74.5 percent.[37] The inventory of homes as a share of home sales, or months' supply of existing homes, remains lower than pre-pandemic levels, at 2.9 in February 2024 compared to 3.1 in February 2020.[38] Single-family housing starts, or the measure of new one-to-four-unit residential construction, dropped 10.8 percent from 2021 to 2022, and continued to decline in 2023.[39] For example, the Mortgage Bankers Association (MBA) estimates housing starts to have decreased about 8.8 percent from 1.55 million in 2022 to 1.42 million in 2023. MBA forecasts housing starts to decline about 1.5 percent in 2024, before rising about 2.8 percent in 2025.[40]

The combination of high home prices and elevated mortgage rates along with continued limited housing supply has also contributed to a sharp decline in purchase loan origination volumes, as new homes are less affordable and existing homeowners are less likely to give up their low interest rate mortgage. For example, in 2022 lenders reported a 51 percent decrease in closed-end site-built single-family mortgage originations from 2021 volumes.[41] Home prices grew by 43 percent between 2019 and 2022, while incomes grew by just 7 percent over the same time.[42] Moody's baseline scenario for February 2024 has single-family purchase mortgage originations similarly down in 2023, when originations totaled $1.341 trillion, compared to 2021, when originations totaled $1.864 trillion.[43]

Furthermore, Moody's notes that, ''Life events such as divorces, deaths, and the birth of children along with moderating interest rates will prompt more homeowners to list their homes in 2024 than in 2023, but the rise in existing home sales is expected to be limited.'' [44] NAR predicts that 2024 will see only a 13.5 percent increase from 2023 in existing home sales.[45] This economic outlook is largely consistent with the outlook provided by other forecasters.

FHFA continues to monitor how these changes in the housing market, as well as other market conditions, may impact various segments of the market, including those targeted by the housing goals.

Post-model adjustments. While FHFA's models can address and forecast many of the factors referenced in the statute, including increasing interest rates and rising property values, some factors are not captured in the models. FHFA, therefore, considers additional factors when selecting the benchmark level within the model-generated confidence interval for each of the single-family housing goals.

Demographic trends. Specific demographic changes, such as the housing demand patterns of millennials or the growth of minority households, are not included explicitly in the market forecast models. Millennials have continued to make up the largest share of home purchase mortgage applications for the past eight years.[46] This generation's share of mortgage purchase applications appears to have peaked at 54 percent in 2022 before declining to 53 percent in 2023 with the entry of Generation Z into the homebuying market.[47] Furthermore, the number of minority households is projected to grow by 22 percent, or 9.3 million, from 2018 to 2028.[48]

Enterprises' share of the mortgage market. The Enterprises' overall share of the mortgage market is subject to fluctuation as well. In the years preceding the 2008 financial crisis, the Enterprises' share of the market dropped to about 44 percent. As shown in Graph 1, that share rose to about 65 percent in 2012, but declined to about 55 percent in 2015. The Enterprises' share remained relatively stable until 2019, then jumped to 67 percent in 2020 as the Enterprises continued to acquire mortgages even as others in the market stepped back. Since then, this share has declined as the shares of government-guaranteed and government-insured loans, and well as other market participants, have grown.

[37] ''Housing Finance: At a Glance Monthly Chartbook February 2024,'' Urban Institute Housing Finance Policy Center, February 27, 2024, p.23, *available at https://www.urban.org/research/publication/housing-finance-glance-monthly-chartbook-february-2024.*

[38] ''Existing Home Sales: Months Supply,'' National Association of Realtors, FRED, Federal Reserve Bank of St. Louis, available at *https://fred.stlouisfed.org/series/HOSSUPUSM673N.*

[39] ''Exploring 2023's Housing Trends and Challenges | Housing Matters,'' Urban Institute, January 31, 2024, available at *https://housingmatters.urban.org/research-summary/exploring-2023s-housing-trends-and-challenges.*

[40] ''Housing Finance: At a Glance Monthly Chartbook, February 2024,'' | Urban Institute Housing Finance Policy Center, Urban Institute,'' Urban Institute, February 27, 2024, p. 21, *available at https://www.urban.org/research/publication/housing-finance-glance-monthly-chartbook-february-2024.*

[41] ''Data Point: 2022 Mortgage Market Activity and Trends,'' Consumer Financial Protection Bureau, 2023, p.8, available at *https://files.consumerfinance.gov/f/documents/cfpb_data-point-mortgage-market-activity-trends_report_2023-09.pdf.*

[42] Alexander Hermann and Peyton Whitney, ''Home Price-To-Income Ratio Reaches Record High,'' Joint Center for Housing Studies of Harvard University,'' January 22, 2024, *available athttps://www.jchs.harvard.edu/blog/home-price-income-ratio-reaches-record-high-0.*

[43] Moody's Analytics, ''Economic Data and Forecasts,'' February 2024.

[44] Edward Friedman, ''U.S. Macroeconomic Outlook Baseline and Alternative Scenarios,'' *Moody's Analytics,* 2024.

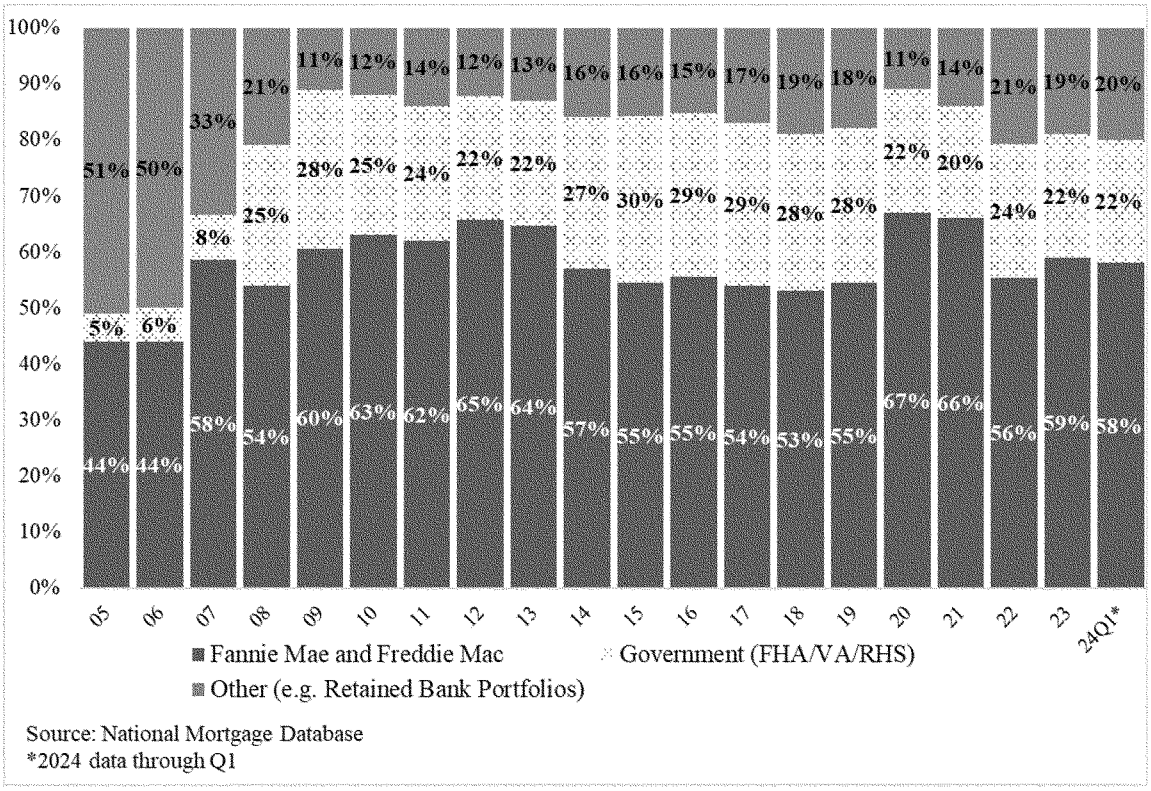
[45] Lauren Cozzi, ''NAR Forecasts 4.71 Million Existing-Home Sales, Improved Outlook for Home Buyers in 2024,'' National Association of Realtors, December 13, 2023, *available at https://www.nar.realtor/newsroom/nar-forecasts-4-71-million-existing-home-sales-improved-outlook-for-home-buyers-in-2024.*

[46] Archana Pradhan, ''Millennials Continued to Lead the Homebuyer Pack in 2023,'' February 2024, CoreLogic Blog accessed on April 7, 2024 at *https://www.corelogic.com/intelligence/millennials-continued-lead-homebuyer-pack-2023/.*

[47] *Ibid.*

[48] Daniel McCue, ''Number of U.S. Households Projected to Increase by 12.2 Million in the Next Decade,'' Joint Center for Housing Studies of Harvard University, December 20, 2018, *available at https://www.jchs.harvard.edu/blog/number-of-u-s-households-projected-to-increase-by-12-2-million-in-the-next-decade.*

Graph 1: Shares of the Conforming Mortgage Market



Source: National Mortgage Database
*2024 data through Q1

As shown in Graph 1, the Enterprises' share of the conforming mortgage market returned to pre-pandemic levels in 2022 and rose slightly in 2023. Over the same period, the total Government share of the mortgage market (including the Federal Housing Administration, Department of Veterans Affairs, and Rural Housing Service) and the Other share (such as retained bank portfolios) expanded.

Past performance of the Enterprises. Table 1 provides the annual performance of both Enterprises on the single-family housing goals between 2010 and 2023. FHFA has made preliminary determinations of the Enterprises' 2023 housing goals performance and will make final determinations later in 2024.

Table 1: Enterprise Single-Family Housing Goals Performance (2010-2023)

Low-Income Home Purchase Goal														
	2010	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Actual Market	27.2	26.5	26.6	24.0	22.8	23.6	22.9	24.3	25.5	26.6	27.6	26.7	26.8	26.3
Benchmark	27.0	27.0	23.0	23.0	23.0	24.0	24.0	24.0	24.0	24.0	24.0	24.0	28.0	28.0
Fannie Mae Performance	25.1*	25.8*	25.6	23.8	23.5	23.5*	22.9	25.5	28.2	27.8	29.0	28.7	27.4	26.1*
Freddie Mac Performance	27.8	23.3*	24.4	21.8*	21*	22.3*	23.8	23.2*	25.8	27.4	28.5	27.4	29.0	28.5
Very Low-Income Home Purchase Goal														
	2010	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Actual Market	8.1	8.0	7.7	6.3	5.7	5.8	5.4	5.9	6.5	6.6	7.0	6.8	6.8	6.5
Benchmark	8.0	8.0	7.0	7.0	7.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	7.0	7.0
Fannie Mae Performance	7.2*	7.6*	7.3	6.0*	5.7	5.6*	5.2*	5.9	6.7	6.5	7.3	7.4	6.9	6.0*
Freddie Mac Performance	8.4	6.6*	7.1	5.5*	4.9*	5.4*	5.7	5.7*	6.3	6.8	6.9	6.3	7.1	6.8
Low-Income Areas Home Purchase Goal														
	2010	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Actual Market	24.0	22.0	23.2	22.1	22.1	19.8	19.7	21.5	22.6	22.9	22.4	19.1	28.0	28.1
Benchmark	24.0	24.0	20.0	21.0	18.0	19.0	17.0	18.0	18.0	19.0	18.0	14.0	20.0	20.0
Fannie Mae Performance	24.1	22.4	22.3	21.6	22.7	20.4	20.2	22.9	25.1	24.5	23.6	20.3	29.6	28.1
Freddie Mac Performance	23.8*	19.2*	20.6	20*	20.1	19.0	19.9	20.9	22.6	22.9	21.8	18.0	28.7	29.5
Low-Income Census Tracts Home Purchase Subgoal														
	2010	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Actual Market	-	-	-	-	-	-	-	-	-	-	-	-	9.7	9.8
Benchmark	-	-	-	-	-	-	-	-	-	-	-	-	4.0	4.0
Fannie Mae Performance	-	-	-	-	-	-	-	-	-	-	-	-	9.3	9.3
Freddie Mac Performance	-	-	-	-	-	-	-	-	-	-	-	-	9.1	9.4
Minority Census Tracts Home Purchase Subgoal														
	2010	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Actual Market	-	-	-	-	-	-	-	-	-	-	-	-	12.1	12.5
Benchmark	-	-	-	-	-	-	-	-	-	-	-	-	10.0	10.0
Fannie Mae Performance	-	-	-	-	-	-	-	-	-	-	-	-	13.5	12.6
Freddie Mac Performance	-	-	-	-	-	-	-	-	-	-	-	-	12.8	13.2
Low-Income Refinance Goal														
	2010	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
Actual Market	20.2	21.5	22.3	24.3	25.0	22.5	19.8	25.4	30.7	24.0	21.0	26.1	37.3	40.3
Benchmark	21.0	21.0	20.0	20.0	20.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0	26.0	26.0
Fannie Mae Performance	20.9	23.1	21.8	24.3	26.5	22.1	19.5*	24.8	31.2	23.8	21.2	26.2	34.7	38.4
Freddie Mac Performance	22.0	23.4	22.4	24.1	26.4	22.8	21.0	24.8	27.3	22.4	19.7*	24.8	37.1	43.2

**Numbers marked with an asterisk indicate that the Enterprise failed to meet the goal.*
2023 performance is as reported by the Enteprises and preliminary. Official performance on all goals in 2023 will be determined by FHFA later in 2024.

B. Proposed Benchmark Levels for the Single-Family Housing Goals for 2025–2027

FHFA is proposing to establish the following benchmark levels for the single-family housing goals and subgoals for 2025–2027.

1. Low-Income Home Purchase Goal

The low-income home purchase goal is based on the percentage share of all single-family, owner-occupied home purchase mortgages purchased by an Enterprise that are made to low-income families, defined as families with incomes less than or equal to 80 percent of AMI.

Table 2. Single-Family Low-Income Home Purchase Goal

	Historical Performance				Projected Forecast			
Year	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**
Actual Market	27.6%	26.7%	26.8%	26.3%				
Benchmark	24.0%	24.0%	28.0%	28.0%	28.0%	25.0%	25.0%	25.0%
Current Market Forecast					27.0% +/- 4.3%	27.2% +/- 5.5%	26.6% +/- 6.5%	26.1% +/- 7.3%
Fannie Mae Performance								
Low-Income Home Purchase Mortgages	374,376	375,569	278,799	189,439				
Total Home Purchase Mortgages	1,288,806	1,306,459	1,016,371	726,139				
Low-Income % of Home Purchase Mortgages	29.0%	28.7%	27.4%	26.1%				
Freddie Mac Performance								
Low-Income Home Purchase Mortgages	280,561	329,426	264,118	209,432				
Total Home Purchase Mortgages	982,888	1,201,540	911,037	735,932				
Low-Income % of Home Purchase Mortgages	28.5%	27.4%	29.0%	28.5%				

Between 2020 and 2023, the low-income purchase market level, as measured by HMDA data, declined from 27.6 percent to 26.3 percent. FHFA's current model forecasts that the annual market average over 2025–2027 will be 26.6 percent. As noted previously and in the accompanying market model paper, this forecast is based on the 2022 HMDA data and Moody's forecasts as of February 2024. As of July 2024, the interest rate cuts in the Moody's forecast have not materialized. FHFA will update this and the other forecast models before the release of the final housing goals rule.

FHFA's 2022–2024 housing goals final rule established a benchmark of 28 percent for the low-income home purchase goal to serve as a ''stretch goal'' to encourage the Enterprises to continue their efforts to promote safe and sustainable lending to low-income families. However, during that period, larger than expected increases in mortgage rates and home prices, and the continued shortfall in affordable housing supply, have disproportionately impacted lower-income borrowers' mortgage eligibility and lowered the number of low-income loans in the market to well below the Agency's initial expectations. Those factors, which are outside the Enterprises' control, continue in the market today along with great uncertainty about when conditions will change. Further, by statute, in setting new goals FHFA considers the Enterprises' past efforts to meet the housing goals as well as the impact of those efforts on the Enterprises' financial condition. During 2023, FHFA observed that many competing actions taken by the Enterprises designed to help them meet the stretch benchmark (which exceeded the level of low-income loans being produced in the market) did not benefit low-income borrowers, risked constraining liquidity in the overall market, and potentially impacted the Enterprises' financial condition.

Considering current and foreseeable market conditions, FHFA is proposing a benchmark level for the low-income home purchase goal of 25 percent. This proposed benchmark level is below the benchmark level for 2022–2024, but above the 24 percent benchmark level that was in place from 2015 through 2021. FHFA expects this proposed benchmark level to encourage the Enterprises to continue to find ways to support low-income borrowers without compromising safe and sound lending standards during a period of affordability challenges and increased uncertainty around market conditions.

2. Very Low-Income Home Purchase Goal

The very low-income home purchase goal is based on the percentage share of all single-family, owner-occupied home purchase mortgages purchased by an Enterprise that are for very low-income families, defined as families with incomes less than or equal to 50 percent of AMI.

Table 3. Single-Family Very Low-Income Home Purchase Goal

	Historical Performance				Projected Forecast			
Year	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**
Actual Market	7.0%	6.8%	6.8%	6.5%				
Benchmark	6.0%	6.0%	7.0%	7.0%	7.0%	6.0%	6.0%	6.0%
Current Market Forecast					6.5% +/- 1.9%	6.6% +/- 2.4%	6.7% +/- 2.8%	6.6% +/- 3.2%
Fannie Mae Performance								
Very Low-Income Home Purchase Mortgages	93,909	97,154	69,919	43,792				
Total Home Purchase Mortgages	1,288,806	1,306,459	1,016,371	726,139				
Very Low-Income % of Home Purchase Mortgages	7.3%	7.4%	6.9%	6.0%				
Freddie Mac Performance								
Very Low-Income Home Purchase Mortgages	68,216	75,945	64,850	50,244				
Total Home Purchase Mortgages	982,888	1,201,540	911,037	735,932				
Very Low-Income % of Home Purchase Mortgages	6.9%	6.3%	7.1%	6.8%				

Between 2020 and 2023, the very low-income purchase market level, as measured using HMDA data, declined from 7.0 percent to 6.5 percent. FHFA's current model forecasts that the market for this goal will remain around 6.6–6.7 percent for 2025–2027. This forecast is based on the 2022 HMDA data and Moody's forecasts as of February 2024 and will be updated before the release of the final housing goals rule.

Like the low-income home purchase goal, FHFA's 2022–2024 housing goals final rule established a ''stretch'' benchmark of 7 percent for the very low-income home purchase goal, also designed to encourage the Enterprises to continue to promote safe and sustainable lending to very low-income families. However, the same adverse market conditions described in the previous section have also disproportionately impacted very low-income borrowers' mortgage eligibility, reducing the number of very low-income loans in the market to well below FHFA's earlier expectations. During 2023, the Enterprises deployed the same actions described above in their efforts to reach the very low-income benchmark, and those actions also failed to benefit very low-income borrowers, risked constraining liquidity in the overall market, and potentially impacted the Enterprises' financial condition. Those market conditions continue today along with great uncertainty about when conditions will change. Therefore, FHFA is proposing a benchmark level for the very low-income home purchase goal of 6 percent. FHFA expects this proposed benchmark will encourage the Enterprises to continue to find ways to support low-income borrowers without compromising safe and sound lending standards during a period of affordability challenges and increased uncertainty around market conditions.

3. Minority Census Tracts Home Purchase Subgoal

The minority census tracts subgoal is based on the percentage share of home purchase mortgages on single-family, owner-occupied properties to borrowers with incomes no greater than 100 percent of AMI in minority census tracts. The Safety and Soundness Act defines minority census tracts as those with a minority population of 30 percent or more and median census tract income of less than 100 percent of AMI. The proposed rule would raise the annual benchmark level for this subgoal for 2025–2027 to 12 percent from its previous level of 10 percent.

Table 4. Single-Family Minority Census Tracts Home Purchase Subgoal

	Historical Performance				Projected Forecast			
Year	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**
Actual Market	*9.2%*	*9.5%*	12.1%	12.2%				
Benchmark	*N/A*	*N/A*	10.0%	10.0%	10.0%	12.0%	12.0%	12.0%
Current Market Forecast					12.5% +/- 2.3%	12.4% +/- 2.9%	12.3% +/- 3.4%	12.4% +/- 3.9%
Fannie Mae Performance								
Minority Census Tracts Home Purchase Mortgages	*129,996*	*143,340*	137,474	91,202				
Total Home Purchase Mortgages	*1,288,806*	*1,306,459*	1,016,371	726,139				
Minority Census Tracts % of Home Purchase Mortgages	*10.1%*	*11.0%*	13.5%	12.6%				
Freddie Mac Performance								
Minority Census Tracts Home Purchase Mortgages	*89,998*	*111,691*	116,223	97,378				
Total Home Purchase Mortgages	*982,888*	*1,201,540*	911,037	735,932				
Minority Census Tracts % of Home Purchase Mortgages	*9.2%*	*9.3%*	12.8%	13.2%				

The numbers in italics refer to FHFA's tabulations of the market and Enterprise performance had this goal been in place before 2022.

FHFA's 2022–2024 housing goals final rule established the minority census tracts home purchase subgoal as a new subgoal within the broader low-income areas goal to encourage the Enterprises to fulfill their statutory duty to facilitate the financing of affordable housing for all low- and moderate-income families, including families of color. The final rule forecast for the new subgoal averaged 8.9 percent over the 2022–2024 period, and the final rule set the annual minority census tracts subgoal benchmark for each of those years at 10 percent to ensure Enterprises focus on the needs of communities of color. The preamble also emphasized that FHFA would carefully monitor the performance of Fannie Mae and Freddie Mac on this new subgoal.

Table 4 shows the implied market levels and Enterprise performance in 2020 and 2021 (before FHFA established the subgoal) as well as market levels and Enterprise performance since the subgoal was established. Both Enterprises exceeded the benchmark and market levels for this subgoal in 2022, the year this subgoal was introduced. Based on preliminary data, both Enterprises exceeded the benchmark level for this subgoal in 2023. The table also shows a pronounced increase in the market levels and both Enterprises' performance on this subgoal beginning in 2022. FHFA notes that 2022 was the first year of new census tract boundaries based on the 2020 Census, which could have contributed to the change. The Agency is continuing to analyze the issue and plans to publish more information in the final rule.

FHFA's current model forecasts the market for this subgoal will remain around 12.3–12.4 percent for 2025–2027. This forecast is based on the 2022 HMDA data and Moody's forecasts as of February 2024, and will be updated before the release of the final housing goals rule. FHFA is proposing to increase the benchmark for this subgoal from 10 percent to 12 percent, which is slightly lower than the midpoint of the market forecast. FHFA believes that this level emphasizes the importance of providing access to mortgage credit for borrowers who reside or seek to reside in minority census tracts.

4. Low-Income Census Tracts Home Purchase Subgoal

The low-income census tracts home purchase subgoal is based on the percentage share of home purchase

mortgages that are either: (1) single-family, owner-occupied properties to borrowers (regardless of income) in low-income census tracts that are not minority census tracts; and (2) home purchase mortgages on single-family, owner-occupied properties to borrowers with incomes greater than 100 percent of AMI in low-income census tracts that are also minority census tracts. The proposed rule would set the annual benchmark level for this subgoal for 2025–2027 at 4 percent.

Table 5. Single-Family Low-Income Census Tracts Home Purchase Subgoal

	Historical Performance				Projected Forecast			
Year	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**
Actual Market	*8.5%*	*9.6%*	9.7%	9.8%				
Benchmark	*N/A*	*N/A*	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
Current Market Forecast					10.1% +/- 1.0%	10.0% +/- 1.3%	9.9% +/- 1.5%	9.9% +/- 1.7%
Fannie Mae Performance								
Low-Income Census Tracts Home Purchase Mortgages	*106,362*	*122,177*	94,864	67,844				
Total Home Purchase Mortgages	*1,288,806*	*1,306,459*	1,016,371	726,139				
Low-Income Census Tracts % of Home Purchase Mortgages	*8.3%*	*9.4%*	9.3%	9.3%				
Freddie Mac Performance								
Low-Income Census Tracts Home Purchase Mortgages	*78,436*	*104,401*	82,883	69,459				
Total Home Purchase Mortgages	*982,888*	*1,201,540*	911,037	735,932				
Low-Income Census Tracts % of Home Purchase Mortgages	*8.0%*	*8.7%*	9.1%	9.4%				

The numbers in italics refer to FHFA's tabulations of the market and Enterprise performance had this goal been in place before 2022.

Table 5 shows the implied market levels and Enterprise performance in 2020 and 2021, along with market levels and Enterprise performance since the subgoal has been established. As shown above, both Enterprises exceeded the benchmark level for this subgoal in 2022, the first year of this subgoal. Based on preliminary data, both Enterprises also exceeded the benchmark level in 2023.

Prior to 2022, the subgoal structure included both low-income census tracts and minority census tracts in a single subgoal. As FHFA noted in the preamble to the 2022–2024 housing goals proposed rule, the performance of the Enterprises on that subgoal was heavily influenced by Enterprise purchases of loans for higher income families (over 100 percent of AMI) rather than for families at or below 100 percent of AMI. FHFA adopted the current subgoal structure, with separate subgoals for low-income census tracts and minority census tracts, to ''refocus Enterprise efforts towards minority census tracts and families at or below 100 percent of AMI.'' [49] In 2022, FHFA set the benchmark level for the new low-income census tract home purchase subgoal at 4 percent to address concerns around gentrification and displacement of low-income families and the potential that the Enterprises may seek to meet the goal by purchasing loans to higher-income borrowers in lower-income areas.

FHFA's current model forecasts that the market for this subgoal will remain around 9.9–10 percent for 2025–2027. This forecast is based on the 2022 HMDA data and Moody's forecasts as of February 2024, and will be updated before the release of the final housing goals rule. FHFA is proposing a benchmark level for this subgoal of 4 percent, which is lower than recent and forecast performance, to be cognizant of concerns about gentrification and the displacement of low-income families in these areas.

FHFA believes that this 4 percent benchmark level addresses concerns about the potential that the Enterprises may seek to meet the goal by purchasing loans to higher-income borrowers in lower-income areas. In addition, this 4 percent benchmark level is intended to encourage the Enterprises to continue to provide access to mortgage credit in low-income census tracts.

5. Low-Income Refinance Goal

The low-income refinance goal is based on the percentage share of all single-family, owner-occupied refinance mortgages purchased by an Enterprise that are for low-income families, defined as families with incomes less than or equal to 80 percent of AMI. The proposed rule would set the annual benchmark level for this goal for 2025–2027 at 26 percent.

[49] *See* 86 FR 47408 (Aug. 25, 2021).

Table 6. Single-Family Low-Income Refinance Goal

	Historical Performance				Projected Forecast			
Year	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**
Actual Market	21.0%	26.1%	37.3%	40.3%				
Benchmark	21.0%	21.0%	26.0%	26.0%	26.0%	26.0%	26.0%	26.0%
Current Market Forecast					40.4% +/- 5.0%	42.1% +/- 6.5%	41.3% +/- 7.7%	39.1% +/- 8.7%
Fannie Mae Performance								
Low-Income Refinance Mortgages	663,667	809,452	279,020	60,682				
Total Refinance Mortgages	3,133,931	3,089,529	803,634	157,984				
Low-Income % of Refinance Mortgages	21.2%	26.2%	34.7%	38.4%				
Freddie Mac Performance								
Low-Income Refinance Mortgages	490,176	658,845	254,332	54,906				
Total Refinance Mortgages	2,485,748	2,651,858	686,394	127,043				
Low-Income % of Refinance Mortgages	19.7%	24.8%	37.1%	43.2%				

Measured as a percent, annual performance in the overall market and by the Enterprises on low-income refinance mortgages tends to be inversely proportional to the volume of low-income refinance loans the market produces and the Enterprises purchase during a given year. For example, during the refinance boom of 2020, low-income refinance volume in the overall market soared to over 1.3 million loans, but the volume of all refinances in the market reached over 6.3 million.[50] Measured as a percent, the low-income refinance percentage share of the market was 21 percent. Compare that performance to 2023, when due to higher interest rates low-income refinance volume in the overall market contracted to roughly 160 thousand loans and refinance volume overall fell to about 397 thousand.[51] Measured as a percent, the low-income refinance percentage share of the market was 40.3 percent. The Enterprises' performance on the low-income refinance goal has followed the same pattern. Refinance share for both Enterprises has increased significantly during this period, even as the volume of their purchases of low-income refinance mortgages has fallen.

FHFA is proposing to maintain the current benchmark level of 26 percent for this goal for 2025–2027. FHFA is proposing this benchmark level in recognition of the fact that FHFA's model cannot forecast low-income refinance levels in the market for 2025–2027 with great confidence, due to the high degree of unpredictability of future interest rates and the strong sensitivity of refinance originations to interest rates. Additionally, many current mortgage holders are ''locked-in'' and are unlikely to refinance without a substantial reduction in mortgage rates. FHFA is not aware of any long-term data series that captures this impact that can be used in the forecast model. FHFA also recognizes that if interest rates were to decline significantly, the proposed benchmark level of 26 percent could be difficult for the Enterprises to achieve based on market conditions. FHFA will continue to monitor the performance of the Enterprises and will take appropriate steps, after adoption of the final housing goals rule, to adjust the benchmark level if necessary.

V. Multifamily Housing Goals and Subgoal

A. Factors Considered in Setting the Proposed Multifamily Housing Goal Benchmark Levels

The Safety and Soundness Act requires FHFA to consider the following six factors in setting the multifamily housing goals:

1. National multifamily mortgage credit needs and the ability of the Enterprises to provide additional liquidity and stability for the multifamily mortgage market;
2. The performance and effort of the Enterprises in making mortgage credit available for multifamily housing in previous years;
3. The size of the multifamily mortgage market for housing affordable to low-income and very low-income families, including the size of the multifamily markets for housing of a smaller or limited size;
4. The ability of the Enterprises to lead the market in making multifamily mortgage credit available, especially for multifamily housing affordable to low-income and very low-income families;
5. The availability of public subsidies; and
6. The need to maintain the sound financial condition of the Enterprises.[52]

Unlike the single-family housing goals, performance on the multifamily housing goals is measured solely against benchmark levels set by FHFA in the regulation, without any retrospective market measure. The absence of a retrospective market measure for the multifamily housing goals results, in part, from the lack of comprehensive data about the multifamily mortgage market. Unlike the single-family mortgage market, where HMDA provides a reasonably comprehensive dataset about single-family mortgage originations each year, the multifamily mortgage market (and the affordable multifamily mortgage market segment) has no comparable single, unified source with coverage extending across many years. As a result, it is difficult to correlate different datasets that rely on different reporting metrics.

The lack of comprehensive data for the multifamily mortgage market is even more acute with respect to the segments of the market that are targeted to low-income families, defined as families with incomes at or below 80 percent of AMI, and very low-income families, defined as families with incomes at or below 50 percent of AMI.

Another difference between the single-family and multifamily housing goals is that while there are separate single-family housing goals for home purchase and refinance mortgages, the multifamily housing goals include all Enterprise multifamily mortgage purchases, regardless of the purpose of the loan.

In consideration of public comments and to improve the responsiveness of the multifamily housing goals to market conditions, FHFA changed its process starting in 2023 for setting the multifamily benchmark levels from a numeric benchmark for units to a percentage of affordable units in multifamily properties financed by mortgages purchased by the Enterprise each year. This ensures that the multifamily housing goals remain

[50] FHFA's tabulation of HMDA data.

[51] *Ibid.*

[52] 12 U.S.C. 4563(a)(4).

meaningful in different market conditions and enables the Enterprises to respond to those conditions while continuing to serve affordable segments.[53]

FHFA has considered each of the six statutory factors in setting the proposed benchmark levels for each of the multifamily housing goals. Five of the factors relate to the multifamily mortgage market and the Enterprise role in that market. Those factors generally have similar impacts on each of the multifamily housing goals and are discussed below. The past performance of the Enterprises is discussed separately for each of the multifamily housing goals.

Multifamily mortgage market. FHFA's consideration of the multifamily mortgage market credit needs addresses the size and competitiveness of the overall multifamily mortgage market as well as the subset that is affordable to low-income and very low-income families. In January 2024, MBA forecasted that multifamily mortgage originations would increase from the $271 billion estimated in 2023 to $339 billion in 2024, then to $404 billion in 2025.[54] However, MBA noted that while this baseline scenario is an improvement from 2023 levels, the outlook remains uncertain and it believes borrowing and lending in 2024 will be below the levels in 2017.[55]

According to the National Multifamily Housing Council's tabulation of American Community Survey microdata, in 2022, about 47 percent of renter households (21 million households) lived in multifamily properties with the remaining renter households living in one-to-four-unit single-family structures.[56] [57]

Affordability in the multifamily mortgage market. In the *State of the Nation's Housing Report 2023,* Harvard University's Joint Center for Housing Studies (JCHS) found that year-over-year rent growth in the professionally managed segment of the apartment market moderated significantly after rising 15.3 percent year-over-year in the first quarter of 2022, a 25-year high. By the end of the first quarter of 2023, rent growth had slowed to 4.5 percent annually.[58] However, rents still rose ''23.9 percent between the first quarter of 2020 and the first quarter of 2023.'' [59] In comparison, the average annual rent increase in the pre-pandemic years of 2015–2019 was only 3.6 percent.[60] These trends point to the continued stress on renters, with the share of cost-burdened renters continuing to remain elevated.

For purposes of the Enterprise housing goals, the Safety and Soundness Act requires FHFA to determine affordability based on whether rent levels are affordable. The Safety and Soundness Act defines a rent level as affordable if a family's rent and utility expenses do not exceed 30 percent of the maximum income level for each income category, with appropriate adjustments for unit size as measured by the number of bedrooms.[61] The JCHS report found that the share of cost-burdened renters, particularly among low-income and very low-income households, continues to grow.[62] A household is considered cost-burdened if it spends more than 30 percent of its income on housing, or severely cost-burdened if it spends more than 50 percent of its income on housing. The JCHS report shows that the share of cost-burdened renters across all income segments rose from 43.6 percent in 2019 to 49.0 percent in 2021.[63] The share of cost-burdened renters earning between $45,000 and $74,999 increased the most, rising 3.5 percentage points from 30.8 percent in 2019 to 34.3 percent in 2021.[64]

The JCHS report also notes the significant rise in new rental supply from 2021 to 2023. In 2022 alone, 342,000 multifamily units were added.[65] However, this growth has started to slow as overall housing starts in the multifamily sector decreased 37.9 percent in January 2024 compared to the volume in January 2023, according to the U.S. Department of Housing and Urban Development (HUD) and the U.S. Census Bureau.[66] While the addition of units may limit rent growth, the JCHS report found that new units are primarily targeted towards the upper end of the market, with rents unaffordable to low-income households.[67] The JCHS report states that the share of newly completed units with asking rents of $2,050 or more doubled from 19 percent in 2015 to 38 percent in 2022, while the share of new units that rent for less than $1,050 declined from 22 percent in 2015 to only 5 percent in 2022.[68]

Role of the Enterprises. In proposing the multifamily housing goal benchmark levels for 2025 through 2027, FHFA has considered the ability of the Enterprises to lead the market in making multifamily mortgage credit available. The Enterprises' share of the overall multifamily mortgage origination market increased in the years immediately following the 2008 financial crisis but has declined more recently in response to growing private sector participation. The Enterprises' share of the multifamily mortgage origination market was over 70 percent in 2008 and 2009,

[53] 12 CFR 1282.13.

[54] ''CREF Forecast: Commercial/Multifamily Borrowing and Lending Expected to Increase 29 Percent to $576 Billion in 2024,'' Mortgage Bankers Association, January 23, 2024, available at *https://www.mba.org/news-and-research/newsroom/news/2024/01/23/cref-forecast-commercial-multifamily-borrowing-and-lending-expected-to-increase-29-percent-to-576-billion-in-2024.*

[55] *Ibid.*

[56] Single-family properties are defined as structures with one to four units. Multifamily properties are defined as structures with five or more units.

[57] ''Review of Household Characteristics, (n.d.),'' National Multifamily Housing Council, *available at https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-resident-demographics/household-characteristics.*

[58] ''The State of the Nation's Housing 2023,'' Joint Center for Housing Studies of Harvard University, 2023, p.1, *available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf.*

[59] ''The State of the Nation's Housing 2023,'' Joint Center for Housing Studies of Harvard University, 2023, p.13, *available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf.*

[60] *Ibid.*

[61] 12 U.S.C. 4563(c).

[62] ''The State of the Nation's Housing 2023,'' Joint Center for Housing Studies of Harvard University, 2023, Table A–1, *available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf.*

[63] *Ibid.*

[64] *Ibid.*

[65] *Ibid.* p. 34.

[66] ''Housing Market Indicators Monthly Update,'' U.S. Department of Housing and Urban Development, February 2024, p. 1, *available* at *https://www.huduser.gov/portal/sites/default/files/pdf/Housing-Market-Indicators-Report-February-2024.pdf.*

[67] ''The State of the Nation's Housing 2023,'' Joint Center for Housing Studies of Harvard University, 2023, p. 34, *available* at *https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf.*

[68] *Ibid.* p. 34–35.

compared to 36 percent in 2015.[69] [70] The total share was 40 percent or higher from 2016 to 2020. However, in 2021and 2022, when multifamily origination volume was relatively robust, the combined Enterprise share was estimated to be below 30 percent before increasing to 38 percent in 2023.[71] If interest rates drop in 2024 and 2025, multifamily origination volume are likely to rise in those years.[72]

FHFA recognizes that the multifamily housing goals are just one measure of how the Enterprises contribute to and participate in the multifamily market. Other Enterprise multifamily activities include their Duty to Serve Underserved Markets Plans, Equitable Housing Finance Plans, Low-Income Housing Tax Credit (LITHC) equity financing, and the mission-driven elements of FHFA's Conservatorship Scorecard. Together with the housing goals, these programmatic activities provide support to renter households, including low-income families spending more than 30 percent of their income on housing. FHFA will continue to monitor these initiatives and priorities to ensure appropriate focus by the Enterprises, including compliance with the Enterprises' charter acts and safety and soundness considerations.

FHFA expects the Enterprises to continue to demonstrate leadership in supporting affordable housing in the multifamily market by providing liquidity for housing for tenants at different income levels in various geographies and market segments. This support should continue throughout the economic cycle, even as the overall size of the multifamily mortgage market fluctuates.

Availability of public subsidies. Multifamily housing assistance is primarily available in two forms—demand-side subsidies that either directly assist low-income tenants (*e.g.,* Section 8 vouchers) or provide project-based rental assistance (*e.g.,* Section 8 contracts), and supply-side subsidies that support the creation and preservation of affordable housing (*e.g.,* public housing and LIHTCs). The availability of public subsidies impacts the overall affordable multifamily housing market, and significant changes to historic programs could impact the ability of the Enterprises to meet the housing goals. The Enterprises also provide liquidity to facilitate the preservation of public subsidies through their purchase of mortgages that finance the preservation of existing affordable housing units (especially for restructurings of older properties that reach the end of their initial 15-year LIHTC compliance periods) and for refinancing properties with expiring Section 8 Housing Assistance Payment contracts.

The need for public subsidies persists as the number of cost-burdened renters remains high, at over 21.6 million renter households in 2021.[73] The Center on Budget and Policy Priorities estimates that only one in four eligible households currently receive Federal housing assistance.[74]

In 2024 and beyond, there should continue to be opportunities in the multifamily mortgage market to provide permanent financing for properties with LIHTCs and to preserve existing affordable units, as described above.

Maintaining the sound financial condition of the Enterprises. In proposing multifamily housing goals benchmark levels for 2025–2027, FHFA must balance the role of the Enterprises in providing liquidity and supporting various multifamily mortgage market segments with the need to maintain the Enterprises' sound and solvent financial condition. The Enterprises have served as a stabilizing force in the multifamily mortgage market across economic cycles, and their loans on affordable multifamily properties have experienced low levels of delinquency and default that are similar to those of market rate properties.

FHFA continues to monitor the activities of the Enterprises in this market. As discussed above and consistent with the authorities described in the Enterprise housing goals regulation, FHFA may take any steps it determines necessary and appropriate after adoption of the final housing goals rule to address the multifamily housing goals benchmark levels to ensure the Enterprises' continued safety and soundness.

B. Proposed Multifamily Housing Goals Benchmark Levels

Based on FHFA's consideration of the statutory factors described above and the past performance of the Enterprises under the multifamily housing goals, the proposed rule would establish benchmark levels for the multifamily housing goals, as further discussed below. Before finalizing the benchmark levels for the multifamily housing goals in the final rule, FHFA will review any additional data that becomes available about the performance of the Enterprises with regard to multifamily housing goals and any developments in the multifamily mortgage market, as well as any comments on the proposed multifamily housing goals benchmark levels.

1. Multifamily Low-Income Housing Goal

The multifamily low-income housing goal is the percentage share of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises that are affordable to low-income families in any given year. Low-income families are defined as those with incomes less than or equal to 80 percent of AMI.

[69] ''The GSE's Shrinking Role in the Multifamily Market,'' Urban Institute, April 2015, p. 4, *available at https://www.urban.org/sites/default/files/publication/48986/2000174-The-GSEs-Shrinking-Role-in-the-Multifamily-Market.pdf.*

[70] ''Multifamily Business Information Presentation,'' Fannie Mae, May 2024, p. 3, *available at https://multifamily.fanniemae.com/media/9131/display.*

[71] *Ibid.*

[72] ''CREF Forecast: Commercial/Multifamily Borrowing and Lending Expected to Increase 29 Percent to $576 Billion in 2024.'' Mortgage Bankers Association, January 23, 2024, *available at https://www.mba.org/news-and-research/newsroom/news/2024/01/23/cref-forecast-commercial-multifamily-borrowing-and-lending-expected-to-increase-29-percent-to-576-billion-in-2024.*

[73] ''The State of the Nation's Housing 2023,'' Joint Center for Housing Studies of Harvard University, 2023, p. 36, *available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf.*

[74] Sonya Acosta, ''Final 2023 Funding Bill Should Support, Expand Housing Vouchers. Center on Budget and Policy Priorities'', December 2022, *available at https://www.cbpp.org/blog/final-2023-funding-bill-should-support-expand-housing-vouchers.*

Table 7. Multifamily Low-Income Housing Goal

	Historical Performance							
Year	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**
Low-Income Multifamily Benchmark	315,000	315,000	415,000	61%	61%	61%	61%	61%
Fannie Mae Performance								
Low-Income Multifamily Units	441,773	384,488	419,361	317,032				
Total Multifamily Units	637,696	557,152	542,347	415,513				
Low-Income % Total	69.3%	69.0%	77.3%	76.3%				
Freddie Mac Performance								
Low-Income Multifamily Units	473,338	373,225	420,107	231,968				
Total Multifamily Units	664,638	540,541	567,249	345,702				
Low-Income % of Total Units	71.2%	69.0%	74.1%	67.1%				

Table 7 shows the annualshare of goal-qualifying low-income multifamily units in properties backing mortgages acquired by each Enterprise from 2020 through 2023.[75] In addition, the historical performance share average for the pre-pandemic years of 2017–2019 would have been 65.1 percent for Fannie Mae and 67.3 percent for Freddie Mac.[76] Starting in 2023, the benchmark metric for this goal changed from the number of low-income units to the share of low-income units. Based on preliminary data, both Enterprises exceeded the benchmark level of 61 percent for this goal in 2023.

Higher interest rates are continuing to contribute to the increasing costs of acquiring low-income multifamily units, and expected declines in affordable originations and increases in rents are likely to cause fewer units to qualify as affordable for low-income families.[77] These challenges are expected to persist in 2025–2027, as rent increases and insufficient supply of affordable housing are likely to result in more low-income families paying greater than 30 percent of their incomes for rent.[78] In light of these factors, FHFA proposes to maintain the current benchmark level for this goal at 61 percent for both Enterprises for 2025–2027. The proposed benchmark takes into account the elevated interest rate environment and the additional challenges the Enterprises currently face in the competitive market, without diminishing the Enterprises' focus on affordability.

2. Multifamily Very Low-Income Housing Goal

The multifamily very low-income housing goal is the percentage share of all goal-eligible units in multifamily properties financed by mortgages purchased by the Enterprises that are affordable to very low-income families in any given year. Very low-income families are defined as those with incomes less than or equal to 50 percent of AMI.

Table 8. Multifamily Very Low-Income Housing Goal

	Historical Performance							
Year	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**
Very Low-Income Multifamily Benchmark	60,000	60,000	88,000	12%	12%	14%	14%	14%
Fannie Mae Performance								
Very Low-Income Multifamily Units	95,416	83,459	127,905	77,509				
Total Multifamily Units	637,696	557,152	542,347	415,513				
Very Low-Income % of Total Units	15.0%	15.0%	23.6%	18.7%				
Freddie Mac Performance								
Very Low-Income Multifamily Units	107,105	87,854	127,733	71,217				
Total Home Purchase Mortgages	664,638	540,541	567,249	345,702				
Very Low-Income % of Total Units	16.1%	16.3%	22.5%	20.6%				

Table 8 shows the number and share of goal-qualifying very low-income multifamily units as a percentage of the total goal-eligible units in properties backing mortgages acquired by each Enterprise. In addition, the historical performance share average for the pre-pandemic years of 2017–2019 would have been 13.1 percent for Fannie Mae and 15.6 percent for Freddie Mac.[79] Starting in 2023, the benchmark metric for this goal changed from the number of very low-income units to the share of very low-income units. Based on preliminary data, both Enterprises exceeded the benchmark level of 12 percent for this goal in 2023.

Considering the multifamily mortgage market conditions described above, FHFA is proposing to set the benchmark level for this goal at 14 percent for 2025–2027, an increase from the benchmark level of 12 percent for 2023–2024. FHFA proposes to set this benchmark at a higher level to ensure that the Enterprises continue to adequately serve very low-income families while accounting for the challenges associated with elevated interest rates, lower volume of loan transactions, and the lack of affordable units in the multifamily market, as well as continued uncertain economic conditions.

FHFA believes that this proposed increase is appropriate and achievable for the Enterprises considering the past performance of the Enterprises on this housing goal.

[75] 12 CFR 1282.16 (Special Counting Requirements).

[76] *See* 87 FR 50800 (Aug. 18, 2022).

[77] *See* 12 U.S.C. 4563(c).

[78] *See* ''The State of the Nation's Housing 2024,'' Joint Center for Housing Studies of Harvard University, June 2024, *available at https://www.jchs.harvard.edu/state-nations-housing-2024.*

[79] *See* 87 FR 50801 (Aug. 18, 2022).

3. Small Multifamily Low-Income Housing Subgoal

The current Enterprise housing goals regulation defines a small multifamily property as having 5 to 50 units. The small multifamily low-income housing subgoal is based on the share of units in small multifamily properties affordable to low-income families as a percentage of all goal-eligible units in all multifamily properties financed by mortgages purchased by the Enterprises in a given year. Low-income families are defined as those with incomes less than or equal to 80 percent of AMI.

Table 9. Small Multifamily Low-Income Subgoal

	Historical Performance							
Year	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**
Fannie Mae Small Low-Income Multifamily Benchmark	10,000	10,000	17,000	2.5%	2.5%	2.0%	2.0%	2.0%
Freddie Mac Small Low-Income Multifamily Benchmark	10,000	10,000	23,000	2.5%	2.5%	2.0%	2.0%	2.0%
Fannie Mae Performance								
Small Low-Income Multifamily Units	21,797	14,409	21,436	13,241				
Total Small Multifamily Units	637,696	557,152	542,347	415,513				
Low-Income % of Total Small Multifamily Units	3.4%	2.6%	4.0%	3.2%				
Freddie Mac Performance								
Small Low-Income Multifamily Units	28,142	31,913	27,103	14,006				
Total Small Multifamily Units	664,638	540,541	567,249	345,702				
Low-Income % of Total Small Multifamily Units	4.2%	5.9%	4.8%	4.1%				

Table 9 shows Enterprise performance on this subgoal, including the previous numeric benchmark levels applicable through 2022 and the percentage-based metric that began in 2023. FHFA recognizes that the Enterprises have different business approaches to the small multifamily market segment, and that each Enterprise sets its own credit risk tolerance for these products. As a result, each Enterprise has performed very differently on this subgoal. Since 2020, Freddie Mac has acquired more units than Fannie Mae, both in terms of percentage share of total units and volume of small low-income units. Based on preliminary data, both Enterprises exceeded the benchmark level of 2.5 percent for this subgoal in 2023.

While FHFA has observed increased private sector financing for small multifamily properties in recent years, elevated interest rates have resulted in fewer multifamily transactions and therefore less activity among secondary mortgage market participants more broadly. Taking these factors into account, FHFA proposes to set the benchmark level for this subgoal at 2 percent for 2025–2027, which would be lower than the benchmark level of 2.5 percent applicable for 2023–2024. FHFA believes that this proposed benchmark level will ensure that the Enterprises support this market when needed without crowding out other sources of financing for small multifamily properties.

VI. Paperwork Reduction Act

The proposed rule would not contain any information collection requirement that would require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted the proposed rule to OMB for review.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act. FHFA certifies that the proposed rule, if adopted as a final rule, will not have a significant economic impact on a substantial number of small entities because the rule applies to Fannie Mae and Freddie Mac, which are not small entities for purposes of the Regulatory Flexibility Act.

VIII. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as *Regulations.gov*). FHFA's proposed rule and the required summary can be found at *https://www.regulations.gov.*

List of Subjects in 12 CFR Part 1282

Mortgages, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, under the authority of 12 U.S.C. 4511, 4513, and 4526, FHFA proposes to amend part 1282 of title 12 of the Code of Federal Regulations as follows:

PART 1282—ENTERPRISE HOUSING GOALS AND MISSION

■ 1. The authority citation for part 1282 continues to read as follows:

Authority: 12 U.S.C. 4501, 4502, 4511, 4513, 4526, 4561–4566.

■ 2. Amend § 1282.1 by revising the definition of ''Designated disaster area'' to read as follows:

§ 1282.1 Definitions.

* * * * *

Designated disaster area means any census tract that is located in a county designated by the President as adversely affected by a declared major disaster administered by FEMA under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), where housing assistance payments were authorized by FEMA. A census tract shall be treated as a ''designated disaster area'' for purposes of this part beginning on the January 1 after the major disaster declaration of the county, or such earlier date as determined by FHFA, and continuing through December 31 of the third full calendar year following the major disaster declaration. This time period may be adjusted for a particular disaster

area by notice from FHFA to the Enterprises.

* * * * *

■ 3. Amend § 1282.11 by revising paragraph (a)(1) to read as follows:

§ 1282.11 General.

(a) * * *

(1) Three single-family owner-occupied purchase money mortgage housing goals, two single-family owner-occupied purchase money mortgage housing subgoals, a single-family refinancing mortgage housing goal, two multifamily housing goals, and a multifamily housing subgoal;

* * * * *

■ 4. Amend § 1282.12 by revising paragraphs (c)(2), (d)(2), (f)(2)(ii), (g)(2), and (h)(2) to read as follows:

§ 1282.12 Single-family housing goals and subgoals.

* * * * *

(c) * * *

(2) The benchmark level, which for 2025, 2026, and 2027 shall be 25 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(d) * * *

(2) The benchmark level, which for 2025, 2026, and 2027 shall be 6 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

* * * * *

(f) * * *

(2) * * *

(ii) The benchmark level, which for 2025, 2026, and 2027 shall be 4 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(g) * * *

(2) The benchmark level, which for 2025, 2026, and 2027 shall be 12 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(h) * * *

(2) The benchmark level, which for 2025, 2026, and 2027 shall be 26 percent of the total number of refinancing mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

■ 5. Revise § 1282.13 to read as follows:

§ 1282.13 Multifamily housing goals and subgoal.

(a) *Multifamily housing goals and subgoal.* An Enterprise shall be in compliance with a multifamily housing goal or subgoal if its performance under the housing goal or subgoal meets or exceeds the benchmark level for the goal or subgoal, respectively.

(b) *Multifamily low-income housing goal.* The percentage share of dwelling units in multifamily residential housing financed by mortgages purchased by each Enterprise that consists of dwelling units affordable to low-income families shall meet or exceed 61 percent of the total number of dwelling units in multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2025, 2026, and 2027.

(c) *Multifamily very low-income housing goal.* The percentage share of dwelling units in multifamily residential housing financed by mortgages purchased by each Enterprise that consists of dwelling units affordable to very low-income families shall meet or exceed 14 percent of the total number of dwelling units in multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2025, 2026, and 2027.

(d) *Small multifamily low-income housing subgoal.* The percentage share of dwelling units in small multifamily properties financed by mortgages purchased by each Enterprise that consists of dwelling units affordable to low-income families shall meet or exceed 2 percent of the total number of dwelling units in all multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2025, 2026, and 2027.

■ 6. Amend § 1282.15 as follows:

■ a. In paragraph (b)(2) remove the first instance of ''subgoal'' and add in its place ''subgoals'';

■ b. Revise the heading and the first sentence of paragraph (c);

■ c. In paragraphs (d)(1), (3), and (4) and (e)(3), remove the phrase ''housing goal and subgoals'' wherever it appears and add in its place the phrase ''housing goals and subgoal'';

■ d. Revise the heading to paragraph (e); and

■ e. In paragraph (e)(2) remove the phrase ''housing goal or subgoals'' and add in its place the phrase ''housing goals or subgoal''.

The revisions read as follows:

§ 1282.15 General counting requirements.

* * * * *

(c) *Calculating the numerator and denominator for multifamily housing goals and subgoal.* Performance under the multifamily housing goals and subgoal shall be measured using a fraction that is converted into a percentage. * * *

* * * * *

(e) *Missing data or information for multifamily housing goals and subgoal.** * *

* * * * *

■ 7. Revise § 1282.20 to read as follows:

§ 1282.20 Preliminary determination of compliance with housing goals; notice of preliminary determination.

(a) *Preliminary determination.* On an annual basis, the Director will evaluate each Enterprise's performance under each single-family housing goal and subgoal and each multifamily housing goal and subgoal. The Director will make a preliminary determination of whether an Enterprise has failed, or there is a substantial probability that an Enterprise will fail, to meet each housing goal or subgoal established by this subpart.

(b) *Notice of preliminary determination.* The Director will provide written notice to each Enterprise of the preliminary determination of performance under each housing goal and subgoal established by this subpart, the reasons for such determination, and the information on which the Director based the determination.

(c) *Response by Enterprise.* Any notification to an Enterprise of a preliminary determination under this section will provide the Enterprise with an opportunity to respond in writing in accordance with the procedures at 12 U.S.C. 4566(b). Relevant information in a timely written response from an Enterprise will be included in the information the Director considers when making a final determination of housing goals compliance under § 1282.21.

■ 8. Redesignate § 1282.21 as § 1282.22, and revise and republish newly redesignated § 1282.22 to read as follows:

§ 1282.22 Housing plans.

(a) *General.* If the Director determines that an Enterprise has failed, or that there is a substantial probability that an Enterprise will fail, to meet any housing goal or subgoal, and that the achievement of the housing goal or subgoal was or is feasible, the Director may require the Enterprise to submit a housing plan for approval by the Director.

(b) *Enforcement factors for 2025–2027.* (1) Except as provided in paragraph (b)(3) of this section, the Director will not require an Enterprise to submit a housing plan based on the Enterprise's failure to meet the single-family low-income families housing

goal, the single-family very low-income families housing goal, or the single-family refinancing housing goal for the years 2025, 2026, or 2027, if:

(i) The share of the market as defined in § 1282.12(b) for the applicable goal is lower than the benchmark level for the goal; and

(ii) The Enterprise's performance meets or exceeds the share of the market minus the enforcement factor for the applicable goal as defined in paragraph (b)(2) of this section.

(2) The following enforcement factors apply for the years 2025, 2026, and 2027:

(i) For the single-family low-income families housing goal, 1.3 percentage points;

(ii) For the single-family very low-income families housing goal, 0.5 percentage points; and

(iii) For the single-family refinancing housing goal, 1.3 percentage points.

(3) The enforcement factor in this paragraph (b) will not apply to a goal in 2027 if the Enterprise failed to meet that goal for each of the previous two years.

(c) *Nature of plan.* If the Director requires a housing plan, the housing plan must:

(1) Be feasible;

(2) Be sufficiently specific to enable the Director to monitor compliance periodically;

(3) Describe the specific actions that the Enterprise will take in a time period determined by the Director to improve the Enterprise's performance under the housing goal; and

(4) Address any additional matters relevant to the plan as required, in writing, by the Director.

(d) *Deadline for submission.* The Enterprise shall submit the housing plan to the Director within 45 days after issuance of a notice requiring the Enterprise to submit a housing plan. The Director may extend the deadline for submission of a plan, in writing and for a time certain, to the extent the Director determines an extension is necessary.

(e) *Review of housing plans.* The Director shall review and approve or disapprove housing plans in accordance with 12 U.S.C. 4566(c)(4) and (c)(5).

(f) *Resubmission.* If the Director disapproves an initial housing plan submitted by an Enterprise, the Enterprise shall submit an amended plan for approval or disapproval not later than 15 days after the Director's disapproval of the initial plan; the Director may extend the deadline if the Director determines an extension is in the public interest. If an amended plan is not acceptable to the Director, the Director may afford the Enterprise 15 days to submit additional amendments to its plan for approval or disapproval.

(g) *Enforcement of housing plans.* If the Director requires an Enterprise to submit a housing plan and the Enterprise refuses to submit such a plan, submits an unacceptable plan, or fails to comply with the plan, the Director may issue a cease and desist order in accordance with 12 U.S.C. 4581, impose civil money penalties in accordance with 12 U.S.C. 4585, or take any other action that the Director determines to be appropriate.

■ 9. Add new § 1282.21 to read as follows:

§ 1282.21 Final determination of compliance with housing goals; notice of final determination.

(a) *Final determination.* On an annual basis, the Director will make a final determination of each Enterprise's performance under each single-family housing goal and subgoal and each multifamily housing goal and subgoal. The final determination will address whether an Enterprise has failed, or there is a substantial probability that an Enterprise will fail, to meet any single housing goal or subgoal and whether the achievement of that housing goal or subgoal was or is feasible.

(b) *Notice of final determination.* The Director will provide each Enterprise with written notification of the final determination. If the Enterprise fails to meet any housing goal or subgoal, the notification will specify whether the Enterprise is required to submit a housing plan for approval under § 1282.22.

Sandra L. Thompson,

Director, Federal Housing Finance Agency.

[FR Doc. 2024–19261 Filed 8–28–24; 8:45 am]

BILLING CODE 8070–01–P

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1304

RIN 3316–AA25

Floating Cabins

AGENCY: Tennessee Valley Authority.

ACTION: Proposed rule.

SUMMARY: The Tennessee Valley Authority (TVA) is proposing to amend its regulations that govern floating cabins located on the Tennessee River System.

DATES: Written comments must be received on or before September 30, 2024.

ADDRESSES: You may send comments, identified by RIN 3316–AA25, by any of the following methods:

Mail/Hand Delivery: David B. Harrell, Program Manager, Floating Cabins, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11A–K, Knoxville, TN 37902.

Email: fc@tva.gov.

FOR FURTHER INFORMATION CONTACT: David B. Harrell, 865–632–1327, *dbharrell@tva.gov.*

SUPPLEMENTARY INFORMATION:

Legal Authority

These proposed amendments are promulgated under the authority of the TVA Act, as amended, 16 U.S.C. 831 *et seq.* and OMB Circular No. A–25. Under Section 26a of the TVA Act, no obstructions affecting navigation, flood control, or public lands or reservations shall be constructed, operated, or maintained across, along, or in the Tennessee River System without TVA's approval. TVA has long considered nonnavigable structures such as floating cabins to be obstructions that require its approval. In addition, Section 9b of the TVA Act (16 U.S.C. 831h–3) provides that TVA may require floating cabins to be maintained by the owner to reasonable health, safety, and environmental standards.

Background and Proposed Amendments

TVA is a multi-purpose federal agency that has been charged by Congress with promoting the wise use and conservation of the resources of the Tennessee Valley region, including the Tennessee River System. In carrying out this mission, TVA operates a system of dams and reservoirs on the Tennessee River and its tributaries for the purposes of navigation, flood control, and power production. Consistent with those purposes, TVA uses the system to improve water quality and water supply and to provide a wide range of public benefits including recreation.

To promote the unified development and regulation of the Tennessee River System, Congress directed TVA to approve obstructions across, along, or in the river system under Section 26a of the TVA Act. ''Obstruction'' is a broad term that includes, by way of example, boat docks, piers, boathouses, buoys, floats, boat launching ramps, fills, water intakes, devices for discharging effluents, bridges, aerial cables, culverts, pipelines, fish attractors, shoreline stabilization projects, channel excavations, and floating cabins. TVA also owns, as agent for the United States, much of the shoreland and

inundated land along and under its reservoir system.

The proposed amendments would modify health, safety, and environmental standards for floating cabins, including standards for electrical safety. The proposed amendments also address TVA's management and administration of the floating cabins program, including clarification around the allowable size of the structures. The proposed amendments would extend the deadline to allow floating cabin owners until October 1, 2029, to comply with the rules and apply for a Section 26a permit. TVA also proposes to make other minor changes to its Section 26a regulations for clarity and consistency.

Since 1971, TVA has used its Section 26a authority to prohibit the mooring on the Tennessee River System of new floating cabins (formerly nonnavigable houseboats) that are designed and used primarily for habitation and not for water transportation. In particular, TVA amended its regulations in 1971 to prohibit the mooring or anchoring of new nonnavigable houseboats except for those in existence before November 21, 1971. Since 1971, TVA has made minor changes to its regulations affecting nonnavigable houseboats, including in 1978 when TVA prohibited mooring of nonnavigable houseboats on the Tennessee River System except for those in existence on or before February 15, 1978. Effective October 1, 2018, TVA updated its regulations to change the terminology to floating cabins (rather than nonnavigable houseboats) and prohibit new floating cabins that did not exist on the Tennessee River System on or before December 16, 2016.

Despite over 40 years of regulation related to floating cabins, the number of floating cabins on the Tennessee River System continued to increase. In determining what action to take with respect to floating cabins, TVA prepared an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act. This EIS assessed the environmental and socioeconomic impacts of different policies to address the proliferation of floating cabins on the Tennessee River System. TVA released a draft of this EIS for public comment in June 2015 and held four public meetings and a webinar to provide information about its analyses and to facilitate public involvement. The final EIS and associated documents can be found at *https://www.tva.com/floatingcabins.*

After considering the comments received during the EIS process and the analyses of impacts, TVA identified as its preferred policy one that establishes standards to ensure safer mooring, electrical connections, and protection of water quality. Under the preferred policy, the mooring of new floating cabins would be prohibited on the Tennessee River System. The preferred policy would have required all existing floating cabins, including nonnavigable houseboats, to be removed from the Tennessee River System by January 1, 2036, and be subject to a regulatory program in the interim. On May 5, 2016, the TVA Board of Directors adopted the preferred policy, except the Board extended the removal date to May 5, 2046.

On December 16, 2016, Congress enacted the Water Infrastructure Improvements for the Nation Act of 2016 (WIIN Act). Section 5003 related to floating cabins and amended the TVA Act to include Section 9b (16 U.S.C. 831h–3). This new section of the TVA Act provides that TVA may approve and allow the use of floating cabins on waters under the jurisdiction of TVA as of December 16, 2016, if the floating cabin is maintained to reasonable health, safety, and environmental standards as required by the TVA Board of Directors and if the owner pays a compliance fee if assessed by TVA. The WIIN Act stipulates that TVA may not require the removal of a floating cabin that was located on the Tennessee River System as of December 16, 2016: (1) for a period of 15 years if it was granted a permit by TVA before enactment, or (2) for a period of 5 years if it was not granted a permit by TVA before enactment. It further stipulates that TVA may establish regulations to prevent the construction of new floating cabins.

Floating Cabins Amendments to TVA's Section 26a Regulations

TVA published ''Phase I'' rule amendments for floating cabins that became effective on October 1, 2018. These amendments clarified the types of structures that TVA will regulate as a floating cabin and prohibited new floating cabins from mooring on the Tennessee River System after December 16, 2016. TVA estimates that approximately 2,200 floating cabins were moored on the Tennessee River System on December 16, 2016.

TVA published ''Phase II'' rule amendments for floating cabins that became effective on October 12, 2021. These amendments included health, safety, environmental, and permitting standards that apply to all floating cabins and a deadline by which floating cabin owners were to apply to TVA for a Section 26a permit. A diverse stakeholder group composed of 18 members advised TVA on the development and drafting of these standards. Owners of floating cabins were given until October 1, 2024, to comply with the standards in TVA's regulations and submit a complete permit application that certifies compliance and includes the payment of a Section 26a permit application fee. The permit application submission date of October 1, 2024, gave owners approximately three years from the effective date of the new standards to bring structures into compliance.

Permitting Program

TVA's permitting requirements for floating cabins apply to all existing floating cabins, including those formerly referred to as nonnavigable houseboats originally permitted on or before February 15, 1978. All floating cabins and attached structures will require a new permit.

TVA has encouraged floating cabin owners to bring floating cabins into compliance and then apply for a permit without delay; however, various factors such as the COVID–19 pandemic, supply chain and labor resource shortages, and state wastewater certification decisions caused delays for floating cabin owners to achieve compliance. The proposed amendment extends the deadline for owners to comply with all standards and submit a Section 26a permit application that certifies compliance no later than October 1, 2029. TVA may deny an initial application for floating cabins if it is submitted past the deadline of October 1, 2029.

Upon submission of the application, owners of floating cabins may remain in place until TVA acts on the application. If TVA approves the application, TVA will issue a Section 26a permit to the owner. If TVA denies the application, the owner must remove the structure in accordance with Section 9b of the TVA Act and 18 CFR 1304.406.

The proposal also clarifies language on rebuilding floating cabins. Any alterations to the dimensions or approved plans for an existing floating cabin (monolithic frame or attached structure) are deemed a structural modification and require written approval from TVA.

Electrical

Floating cabins can pose a threat to public safety due to unsafe electrical systems. TVA is aware that floating cabins are currently obtaining electricity from the shore via underwater cables, through onboard portable generators, and by other methods. When the final Phase II rule on floating cabins was published in 2021, TVA was not aware

of any local, state, or federal entity that monitored the construction of floating cabins and enforced building codes. However, after working with multiple state agencies, it became clear that state and local entities have the ability and expertise to regulate and inspect electrical requirements for floating cabins within their jurisdiction. Separate standards in TVA's Section 26a regulations had potential to create confusion for floating cabin owners about applicable requirements.

TVA is not changing the requirement that floating cabin owners comply with all applicable federal, state, and local laws and regulations regarding electrical wiring and equipment. If a floating cabin is documented to be in violation of any federal, state, or local electrical standard or regulation by the respective regulatory agency, TVA may revoke the permit and require removal of the floating cabin from the Tennessee River System if the violation is not corrected as specified by the relevant regulatory agency in accordance with the agency's requirements. TVA proposes to remove the separate electrical standards for floating cabins from the Section 26a regulations and remove the requirement that floating cabin owners submit a certification of compliance to TVA every even-numbered year. This appropriately recognizes that state and local agencies are best equipped to adopt and enforce electrical standards for floating cabins while reinforcing compliance with those standards is a condition of the Section 26a permit. The regulations also clarify that applicants must provide documentation, upon TVA's request, that demonstrates the floating cabin is in compliance with wastewater and electric standards. In the event that a floating cabin owner fails to provide satisfactory evidence of compliance upon request, TVA is authorized to revoke the Section 26a permit and require removal of the floating cabin from the reservoir.

Other Changes to Section 26a Regulations

In addition to the changes affecting floating cabins listed above, TVA is proposing other minor amendments to the Section 26a regulations. These include minor edits for clarity and consistency in the regulations, including a clarification to the regulations that TVA's issuance of a permit for any proposed facility or obstruction does not mean the proposed facility or obstruction has been deemed safe by TVA and that TVA may proceed with the review of an application absent the submission of some of the noted information.

Administrative Requirements

A. Unfunded Mandates Reform Act and Various Executive Orders Including E.O. 12866, Regulatory Planning and Review; E.O. 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 13045, Protection of Children From Environmental Health Risks; E.O. 13132, Federalism; E.O. 13175, Consultation and Coordination With Indian Tribal Governments; E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use; E.O. 12988, Civil Justice Reform Act; and E.O. 14094, Modernizing Regulatory Review

This proposal contains no federal mandates for state, local, or tribal government or for the private sector. TVA has determined it will not have a significant annual effect of $200 million or more or result in expenditures of $200 million in any one year by state, local, or tribal governments or by the private sector. The proposal will not have a substantial direct effect on the States or Indian tribes, on the relationship between the Federal Government and the States or Indian tribes, or on the distribution of power and responsibilities between the Federal Government and States or Indian tribes. Nor will the proposal have concerns for environmental health or safety risks that may disproportionately affect children, have significant effect on the supply, distribution, or use of energy, or disproportionally impact low-income or minority populations. Unified development and regulation of the Tennessee River System through an approval process for obstructions across, along, or in the river system and management of United States-owned land entrusted to TVA are federal functions for which TVA is responsible under the TVA Act, as amended. In general, this proposal updates TVA's regulations relating to the standards that floating cabins will be required to meet in order to remain on the Tennessee River System. Absent a request for these services for a Section 26a permit, no entity or individual would be forced to pay a charge. None of the charges would be applied retroactively. TVA will continue to appropriately review specific requests in accordance with applicable laws, regulations, and Executive Orders.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605, TVA is required to prepare a regulatory flexibility analysis unless the head of the agency certifies that the proposal will not have a significant economic impact on a substantial number of small entities. TVA's Chief Executive Officer has certified that this proposal will not have a significant economic impact on a substantial number of small entities. The statute defines ''small entity'' as a ''small business,'' ''small organization'' (further defined as a ''not-for-profit enterprise''), or a ''small governmental jurisdiction.'' Most floating cabins are owned by individuals and not businesses, not-for-profit enterprises, or small governmental jurisdictions, and therefore relatively few ''small entities'' will be affected by TVA's proposal. Even if the proposed amendments tangentially impact marinas that accommodate floating cabins, a relatively small number of marinas will be impacted. Accordingly, this rule will not have a significant impact on a substantial number of small entities; no regulatory flexibility analysis is required; and TVA's Chief Executive Officer has made the requisite certification.

List of Subjects in 18 CFR Part 1304

Administrative practice and procedure, Natural resources, Navigation (water), Rivers, Water pollution control.

For the reasons set out in the preamble, the Tennessee Valley Authority proposes to amend 18 CFR part 1304 as follows:

PART 1304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES AND OTHER ALTERATIONS

■ 1. The authority citation for 18 CFR Part 1304 continues to read as follows:

Authority: 16 U.S.C. 831–831ee.

■ 2. Amend § 1304.2 by:
■ a. Revising the first sentence of paragraph (b);
■ b. Adding a sentence at the end of paragraph (c); and
■ c. Adding paragraph (e).

The revision and additions read as follows:

§ 1304.2 Application.

* * * * *

(b) Applications shall be submitted on TVA's online application system or addressed to the Tennessee Valley Authority, at the appropriate location as listed on the application and on TVA's website.* * *

(c) * * * TVA, in its sole discretion, may proceed with the review of an application in the absence of some materials listed in this section.

* * * * *

(e) TVA's issuance of a permit does not mean that TVA has determined a facility or obstruction is safe for any purpose or that TVA has any duty to make such a determination. In issuing a permit, TVA assumes no liability to the applicant or to any third party for any damages to property or personal injuries arising out of or in any way connected with applicant's construction, operation, or maintenance of the permitted facility.

■ 3. Amend § 1304.100 by:
■ a. Revising the seventh sentence; and
■ b. Adding a sentence after the seventh sentence.

The revision and addition read as follows:

§ 1304.100 Scope and intent.

* * * Existing floating cabins may remain moored on the Tennessee River System provided they remain in compliance with the rules in this part and obtain a section 26a permit from TVA issued after October 12, 2021. Existing floating cabins that do not apply for a permit by the deadline in this part or do not remain in compliance with the rules in this part are subject to the removal provisions of this part and section 9b of the TVA Act.* * *

■ 4. Amend § 1304.101 by:
■ a. Revising paragraph (c);
■ b. Revising paragraph (h)(2) introductory text;
■ c. Revising paragraph (h)(3); and
■ d. Revising paragraph (i)(3).

The revisions read as follows:

§ 1304.101 Floating cabins

* * * * *

(c) All floating cabins shall comply with the rules contained in this part and make application for a section 26a permit by October 1, 2029. TVA may, at its sole discretion, deny an initial application for a floating cabin submitted after this date. Unpermitted structures are subject to the removal provisions of this part and Section 9b of the TVA Act.

* * * * *

(h) * * *

(2) Any alterations to the dimensions or approved plans for an existing floating cabin (monolithic frame or attached structure) shall be deemed a structural modification and shall require prior written approval from TVA. All expansions in length, width, or height are prohibited, except under the following circumstances if approved in writing in advance by TVA. Structural modifications to attached structures are subject to § 1304.101(i).

* * * * *

(3) Owners must submit an application to TVA sixty (60) days in advance of proposed rebuilding of an entire or significant portion of a floating cabin (monolithic frame or attached structures). The owner shall not begin construction until prior written acknowledgment from TVA is received. Plans for removal of the existing floating cabin or portions to be rebuilt shall be acknowledged in writing by TVA before removal occurs, and the removal shall be at the owner's expense before construction of the rebuild may begin. The owner shall provide evidence of approval from the marina operator to rebuild within the approved harbor limits of a commercial marina. TVA may require a new permit for the proposed rebuilding. Construction of the rebuilt floating cabin must be completed within 18 months. The rebuilt monolithic frame of the floating cabin shall match the exact configuration and dimensions (length, width, and height) of both the total monolithic frame and the enclosed and open space as approved by TVA; attached structures are subject to § 1304.101(i). The footprint of the attached structures shall not be incorporated into the footprint of the monolithic frame of the floating cabin.

* * * * *

(i) * * *

(3) Attached structures shall not exceed 14 feet in height from the lowest floor level, shall not be enclosed, shall not be connected to the monolithic frame by a single roofline, and shall comply with § 1304.204(p).

* * * * *

■ 5. Amend § 1304.103 by:
■ a. Revising paragraph (a);
■ b. Revising paragraph (d); and
■ c. Removing paragraph (e).

The revisions read as follows:

§ 1304.103 Health, safety, and environmental standards

(a) *Wastewater.* Floating cabins shall comply with § 1304.2(d) with regard to discharges into navigable waters of the United States. All discharges, sewage, and wastewater, and the pumping, collection, storage, transport, and treatment of sewage and wastewater shall be managed in accordance with all applicable federal, state, and local laws and regulations (satisfactory evidence of compliance to be provided to TVA upon request). Upon receipt of documentation that a floating cabin is in violation of any federal, state, or local discharge or water quality regulation by the respective regulatory agency or upon failure to provide satisfactory evidence of compliance at TVA's request, TVA is authorized to revoke the permit and require removal of the floating cabin from the Tennessee River System if the violation is not corrected as specified by the regulatory agency in accordance with the agency's requirements or if satisfactory evidence of compliance is not provided to TVA.

* * * * *

(d) *Electrical.* Floating cabins shall comply with all applicable federal, state, and local laws and regulations regarding electrical wiring and equipment (satisfactory evidence of compliance to be provided to TVA upon request). Upon receipt of documentation that a floating cabin is in violation of any federal, state, or local electrical standard or regulation by the respective regulatory agency or upon failure to provide satisfactory evidence of compliance at TVA's request, TVA is authorized to revoke the permit and require removal of the floating cabin from the Tennessee River System if the violation is not corrected as specified by the regulatory agency in accordance with the agency's requirements or if satisfactory evidence of compliance is not provided to TVA. Floating cabins shall comply with § 1304.209(c)(2).

Michael McCall,

Vice President, Environment and Sustainability.

[FR Doc. 2024–19373 Filed 8–28–24; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1301

[Docket No. DEA–1362]

RIN 1117–AB77

Schedules of Controlled Substances: Rescheduling of Marijuana

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of hearing on proposed rulemaking.

SUMMARY: This is notice that the Drug Enforcement Administration will hold a hearing with respect to the proposed rescheduling of marijuana into schedule III of the Controlled Substances Act. The proposed rescheduling of marijuana was initially proposed in a Notice of Proposed Rulemaking published in the **Federal Register** on May 21, 2024.

DATES: Interested persons desiring to participate in this hearing must provide written notice of desired participation as set out below, on or before September 30, 2024.

The hearing will commence on December 2, 2024, at 9 a.m. ET at 700

Army Navy Drive, Arlington, VA 22202. The hearing may be moved to a different place and may be continued from day to day or recessed to a later date without notice other than announcement thereof by the presiding officer at the hearing. 21 CFR 1316.53.

ADDRESSES: To ensure proper handling of notification, please reference ''Docket No. DEA–1362'' on all correspondence.

- *Electronic notification* should be sent to *nprm@dea.gov.*
- *Paper notification* sent via regular or express mail should be sent to Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249. *Email: nprm@dea.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 21, 2024, the Department of Justice published a notice of proposed rulemaking (NPRM) to transfer marijuana from schedule I of the Controlled Substances Act (CSA) to schedule III of the CSA, consistent with the view of the Department of Health and Human Services (HHS) that marijuana has a currently accepted medical use, has a potential for abuse less than the drugs or other substances in schedules I and II, and that its abuse may lead to moderate or low physical dependence or high psychological dependence.[1] The CSA requires that such actions be made through formal rulemaking on the record after opportunity for a hearing. 21 U.S.C. 811(a).

The NPRM stated that if the transfer to schedule III is finalized, the regulatory controls applicable to schedule III controlled substances would apply, as appropriate, along with existing marijuana-specific requirements and any additional controls that might be implemented, including those that might be implemented to meet U.S. treaty obligations. If marijuana is transferred into schedule III, the manufacture, distribution, dispensing, and possession of marijuana would remain subject to the applicable criminal prohibitions of the CSA. Any drugs containing a substance within the CSA's definition of ''marijuana'' would also remain subject to the applicable prohibition in the Federal Food, Drug, and Cosmetic Act (FDCA).

The NPRM invited interested parties to submit requests for hearing on or before June 20, 2024. DEA received numerous requests for a hearing in response to the NPRM.

Upon review of the requests for a hearing, I am authorizing a hearing to be conducted in accordance with the Administrative Procedure Act (5 U.S.C. 551–559), the CSA (21 U.S.C. 811, *et seq.*) and the DEA regulations.

Hearing Notification

Pursuant to 21 U.S.C. 811(a) and 21 CFR 1308.41, DEA will convene a hearing on the NPRM. The hearing will commence on December 2, 2024, at 9 a.m. ET at the DEA Hearing Facility, 700 Army Navy Drive, Arlington, VA 22202. The hearing will be conducted pursuant to the provisions of 5 U.S.C. 556 and 557, and 21 CFR 1308.41–1308.45, and 1316.41–1316.68. DEA is committed to conducting a transparent proceeding. Regarding the methods of public access, DEA will provide updates on the DEA website, *https://www.dea.gov.*

In accordance with 21 U.S.C. 811 and 812, the purpose of the hearing is to ''receiv[e] factual evidence and expert opinion regarding'' whether marijuana should be transferred to schedule III of the list of controlled substances. 21 CFR 1308.42.

Every interested person (defined in 21 CFR 1300.01(b) as ''any person adversely affected or aggrieved by any rule or proposed rule issuable'' under 21 U.S.C. 811), who wishes to participate in the hearing shall file a written notice of intention to participate for review by the Agency. Electronic filing may be made as a PDF attachment via email to the Drug Enforcement Administration, Attn: Administrator at *nprm@dea.gov,* on or before 11:59 p.m. Eastern Time on September 30, 2024. If filing by mail, written notice must be filed with the Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, VA 22152, and must be postmarked on or before September 30, 2024. Paper requests that duplicate electronic submissions are not necessary and are discouraged.

Each notice of intention to participate must conform to 21 CFR 1308.44(b) and in the form prescribed in 21 CFR 1316.48. Among those requirements, such requests must:

(1) State with particularity the interest of the person in the proceeding;

(2) State with particularity the objections or issues concerning which the person desires to be heard; and

(3) State briefly the position of the person regarding the objections or issues.

Any person who has previously filed a request for hearing or to participate in a hearing need not file another request; the request for hearing is deemed to be a notice of appearance under 21 CFR 1308.44(b).

After the deadline to request to participate in the hearing, I will assess the notices submitted and make a determination of participants. Following that assessment, I will designate a presiding officer to preside over the hearing. The presiding officer's functions shall commence upon designation, as provided in 21 CFR 1316.52. The presiding officer will have all powers necessary to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. *Id.* The presiding officer's authorities include the power to hold conferences to simplify or determine the issues in the hearing or to consider other matters that may aid in the expeditious disposition of the hearing; require parties to state their position in writing; sign and issue subpoenas to compel the production of documents and materials to the extent necessary to conduct the hearing; examine witnesses and direct witnesses to testify; receive, rule on, exclude, or limit evidence; rule on procedural items; and take any action permitted by the presiding officer under DEA's hearing procedures and the APA. *Id.*

Comments on or objections to the proposed rule submitted under 21 CFR 1308.43(g) will be offered as evidence at the hearing, but the presiding officer shall admit only evidence that is competent, relevant, material, and not unduly repetitive. 21 CFR 1316.59(a).

Anne Milgram,

Administrator.

[FR Doc. 2024–19370 Filed 8–26–24; 4:45 pm]

BILLING CODE 4410–09–P

[1] *Schedules of Controlled Substances: Rescheduling of Marijuana,* 89 FR 44597 (May 21, 2024).

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2024–0004; Notice No. 233]

RIN 1513–AC98

Proposed Establishment of the Rancho Guejito Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the 32,360-acre ''Rancho Guejito'' American viticultural area (AVA) in San Diego County, California. The proposed AVA is located entirely within the existing South Coast AVA and would partially overlap the existing San Pasqual Valley AVA. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on these proposals.

DATES: TTB must receive your comments on or before October 28, 2024.

ADDRESSES: You may electronically submit comments to TTB on this proposal using the comment form for this document as posted within Docket No. TTB–2024–0004 on the ''Regulations.gov'' website at *https://www.regulations.gov.* Within that docket, you also may view copies of this document, its supporting materials, and any comments TTB receives on this proposal. A direct link to that docket is available on the TTB website at *https://www.ttb.gov/wine/notices-of-proposed-rulemaking* under Notice No. 233. Alternatively, you may submit comments via postal mail to the Director, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW. Box 12, Washington, DC 20005. Please see the Public Participation section below for further information on the comments requested regarding this proposal and on the submission, confidentiality, and public disclosure of comments.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon;
- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Petition To Establish the Rancho Guejito AVA

TTB received a petition from Rancho Guejito Vineyard, Inc., proposing to establish the ''Rancho Guejito'' AVA. The proposed AVA is located in San Diego County, California, and is entirely within the existing South Coast AVA (27 CFR 9.104) and, if established, would partially overlap the established San Pasqual Valley AVA (27 CFR 9.25). Within the proposed AVA, there are seven commercial vineyards which cover a total of 49.5 acres. At the time the petition was submitted, an additional four new vineyards and the expansion of three existing vineyards were planned. The distinguishing features of the proposed Rancho Guejito AVA are its topography, geology, and climate. The petition also included information about the soils of the proposed AVA. However, because the petition did not include information about the soils of the surrounding regions for comparison, TTB was unable to determine if soils are a distinguishing feature of the proposed AVA.

Proposed Rancho Guejito AVA

Name Evidence

The proposed Rancho Guejito AVA takes its name from the Rancho Guejito y Cañada de Paloma land grant, which the Mexican Governor issued to José María Orozco in 1845. According to the petition, the land grant's name translates to ''ranch with a stream in a glen of the dove.'' The petition notes that of the 800 ranchos recognized by the U.S. Government, Rancho Guejito is the only one whose boundaries remain intact. The proposed Rancho Guejito AVA will encompass the entire original land grant and the adjacent slope areas that contribute to Guejito Creek. The petition included a copy of an 1882

newspaper advertisement for 100 tons of grapes for sale by the Vineyard Ranch, which was located within the rancho, showing that commercial grape growing within the proposed AVA dates to the late 19th century.

The petition included evidence that the region of the proposed AVA is currently known as ''Rancho Guejito.'' For instance, a 2007 newspaper article about the region of the proposed AVA is titled ''Rancho Guejito–Southern California's land that time forgot.'' [1] In 2013, the Escondido Public Library held a talk about ''the historic Rancho Guejito,'' which was described as ''the last undeveloped Mexican land grant rancho in San Diego County * * *.'' [2] A 2019 newspaper article about the visit of then-Secretary of Agriculture Sonny Perdue to an avocado farm within the proposed AVA is titled ''U.S. Ag Secretary tours Rancho Guejito avo [sic] farm.'' [3] A 2019 story about the San Diego Mountain Bike Association's ''Ride the Rancho'' event is titled ''Rancho Guejito opens doors to San Diego mountain bikers.'' [4] The Escondido Creek Conservancy website states that ''Rancho Guejito is imbedded in our cultural history, but is also a critical part of our natural history * * *.'' [5] Finally, the San Diego County Vintners Association lists the Rancho Guejito Vineyard as a member.[6]

Boundary Evidence

The proposed Rancho Guejito AVA is located in San Diego County and is entirely within the established South Coast AVA. The proposed AVA encompasses the Rancho Guejito land grant, and its boundaries largely correspond with those of the land grant. The proposed boundary, in part, is concurrent with the boundary of the La Jolla Indian Reservation, which is omitted from the proposed AVA due to its status as Tribal land. The proposed eastern boundary separates the proposed AVA from the Cleveland National Forest and the Mesa Grande Indian Reservation. The southern boundary separates the proposed Rancho Guejito AVA from the majority of the established San Pasqual Valley AVA. The proposed western boundary separates the proposed AVA from the San Pasqual Indian Reservation, and farther to the west, the heavily urbanized city of Escondido.

The southernmost region of the proposed Rancho Guejito AVA overlaps a small portion of the San Pasqual Valley AVA known as Rockwood Canyon. The overlapping area comprises 308 acres of the approximately 9,000-acre established San Pasqual Valley AVA. The petition requests retaining the partial overlap for reasons discussed later in this rulemaking document.

Distinguishing Features

According to the petition, the distinguishing features of the proposed Rancho Guejito AVA are its topography, geology, and climate.

Topography

The proposed Rancho Guejito AVA is situated approximately 33 miles northeast of the city of San Diego. Although the proposed AVA is not immediately adjacent to the Pacific Ocean, the petition states that there are no hills between the proposed AVA and the ocean. The flatter, lower terrain west of the proposed AVA allows for marine air to reach the proposed AVA, which has a moderating effect on its climate. By contrast, the neighboring established Ramona Valley AVA (27 CFR 9.191), to the southeast of the proposed AVA, is farther inland and surrounded by higher elevations. As a result, the Ramona Valley AVA receives less marine air than the proposed AVA. The petition states that because of the marine influence, the proposed AVA generally has cooler year-round high temperatures and warmer year-round low temperatures than regions farther inland.

The petition describes the proposed Rancho Guejito AVA as a region of diverse topography, with varied elevations and landforms. Elevations within the proposed AVA range from 420 feet to 4,210 feet. The northern portion of the proposed AVA is characterized by high elevations, rugged mountains, and steep canyons complimented with lush meadows. The southern portion of the proposed AVA is characterized by lower elevations with gently rolling hills and large expanses of grasslands. Although the proposed AVA includes areas with steep slopes, the petition notes that 33 percent, or 10,540 acres, within the proposed AVA are 15 percent or less in slope angle. The following table shows the elevation and slope angles of the existing and planned vineyards within the proposed AVA.

TABLE 1—ELEVATION AND SLOPE ANGLES OF VINEYARDS [7]

Vineyard name	Elevation (feet)	Average slope angle (percent)
Established Vineyards		
Rockwood Hillside	617–758	39
Rockwood Canyon	426–437	1.88
Coates	1,507–1,522	3.33
Anderson Flats	1,950–1,989	4.23
Vineyard West	2,045–2,055	1
Vineyard East	2,107–2,127	3.92
Chimney Flats	2,951–2,987	7.90
Planned Vineyards		
Bull	1,741–1,812	4.35
Twin Flats	2,607–2,613	1.05

[1] *https://www.seattletimes.com/nation-world/rancho-guejito-8212-southern-californias-land-that-time-forgot.*

[2] Originally accessed at *https://library.escondido.org/rancho-guejito-revisited-at-the-escondido-public-library.aspx.* A copy of the article is included in the appendix to the petition in Docket No. TTB–2024–0004 at *https://www.regulations.gov.*

[3] *https://www.times-advocate.com/articles/u-s-ag-secretary-tours-rancho-guejito-avo-farm.*

[4] *https://www.sandiegoreader.com/news/2019/mar/25/ranch-guejito-opens-doors-san-diego-mountain-biker.*

[5] *https://escondidocreek.org/news/an-eagle-eye-view-of-rancho-guejito.*

[6] *https://sandiegowineries.org/directory/ranch-guejito-vineyard.*

[7] For a map showing the specific locations of the established and planned vineyards within the proposed AVA, see Figure 2 of the petition, which is included in Docket TTB–2024–0004 at *https://www.regulations.gov.*

TABLE 1—ELEVATION AND SLOPE ANGLES OF VINEYARDS [7]—Continued

Vineyard name	Elevation (feet)	Average slope angle (percent)
Bear Springs	2,907–2,917	3.15
Pine Mountain	4,136–4,156	6.06

The petition states that the diversity of the topography within the proposed AVA affects the climate and precipitation and allows a large variety of grape varietals to grow successfully. At the time the petition was submitted, 24 different varieties of grapes were grown in the proposed AVA, including the cool-climate chardonnay and the warm-climate syrah and cabernet sauvignon varietals.

Unlike the proposed AVA, the topography of the surrounding regions is less diverse. To the immediate north of the proposed AVA, the elevations drop sharply into the San Luis Rey watershed, and the slope angles are steeper and unsuitable for viticulture. To the southeast of the proposed AVA is the established Ramona Valley AVA, which is described as a broad, flat valley ringed by hills. The petition states that the Ramona Valley AVA has less variation in elevations than the proposed Rancho Guejito AVA, and the average vineyard elevation is 1,400 feet. South of the proposed AVA is the established San Pasqual Valley AVA, which is a large alluvial valley with elevations less than 500 feet. To the west of the northern part of the proposed AVA, elevations drop sharply into Hellhole Canyon, within the Hellhole Canyon Preserve. Farther west beyond the canyon is the San Diego Zoo Safari Park and the largely residential suburbs of San Diego. The petition states that the largely man-made character of this region distinguishes it physically from the largely undeveloped terrain of the proposed AVA.

Geology

According to the petition, the primary geologic formation underlying the proposed Rancho Guejito AVA is Middle Jurassic to Late Cretaceous tonalite, which is an igneous, plutonic rock with a coarse texture. The northern portion of the proposed AVA also contains Early Proterozoic to Late Cretaceous plutonic rock and Triassic to Cretaceous gabbro, while the southern region also contains a small amount of Pliocene to Holocene alluvium. The decomposition of the plutonic rock contributes to the formation of soils. The primary soil series of the proposed Rancho Guejito AVA are Fallbrook, Ramona, Visalia, and Placentia loams. These soils are described as coarse, well-drained, moderately deep to deep sandy loams. However, because the petition did not include a comparison of the soils of the surrounding regions, TTB is unable to determine if soils are a separate distinguishing feature of the proposed AVA.

The petition also states that the decomposition of these geologic features over millennia contributes minerals that are important to the health of grapevines. For example, gabbro is rich in magnesium and iron, which play important roles in chlorophyll formation and photosynthesis as well as cell strengthening. The plutonic rocks in tonalite decompose into soils that are generally sandy, coarse, and drain well and are desirable for growing grape varietals such as Grenache, Claret Blanc, and Rousanne.

To the north and east of the proposed Rancho Guejito AVA, Middle Jurassic to Late Cretaceous tonalite is also present, but geologic formations consisting of gabbro and schist are more common than within the proposed AVA. South of the proposed AVA, in the established San Pasqual Valley AVA, the most common geologic feature is Pliocene to Holocene alluvium. To the west of the proposed AVA, Middle Jurassic to Late Cretaceous tonalite is also the most common geologic feature, but the urban nature of this region makes it less suitable for commercial viticulture.

Climate

The petition describes the overall climate of the proposed Rancho Guejito AVA as a Mediterranean climate, meaning that the region experiences dry, mild summers and precipitation is limited to the winter months, generally between October and April. Due to the diversity of elevations within the proposed AVA, temperatures are also diverse, with the higher elevations in the north of the proposed AVA typically having cooler temperatures and smaller growing degree day (GDD) [8] accumulations than the lower elevations in the southern portion. Although GDD accumulations vary within the proposed AVA, the petition states that the same varietals of grapes can be grown throughout, but ripening takes longer in the portions that have lower accumulations. The following table shows the average GDD accumulations from 2010 to 2020 from multiple locations within the proposed AVA and the regions to the southeast and east. The petition did not provide climate data from the regions to the north, west, or due east of the proposed AVA.

TABLE 2—GROWING DEGREE DAY ACCUMULATIONS

Weather station location (direction from proposed AVA)	Elevation (feet mean sea level)	GDD aAccumulation
Pine Mountain (within)	3,680	3,216
Cienega Flats (within)	3,020	3,422
Vineyard Ranch (within)	2,080	3,624
Anderson Flats (within)	1,830	3,528
Rockwood (within)	430	3,741
San Pasqual (south)	400	3,493

[8] *See* Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 2nd Ed. 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual GDDs, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees F, the minimum temperature required for grapevine growth.

[9] GDD data from the Ramona Airport taken from TTB Notice No. 38, which proposed establishing the Ramona Valley AVA. See 70 FR 16459, March 31, 2005.

TABLE 2—GROWING DEGREE DAY ACCUMULATIONS—Continued

Weather station location (direction from proposed AVA)	Elevation (feet mean sea level)	GDD aAccumulation
Ramona Airport (southeast)	1,390	[9] 3,470

The GDD accumulations in the highest elevations of the proposed AVA are lower than those of the regions to the south and southeast of the proposed AVA, which have lower elevations. The lowest and middle-range elevations of the proposed AVA have higher GDD accumulations than the regions to the south and southeast. The petition attributes the lower GDD accumulations in the San Pasqual Valley AVA to the fact that the AVA is a valley that acts as a cold sink, trapping the cool air that drains from the higher elevations of the proposed AVA at night. The petition states that the Ramona Valley AVA is farther inland than the proposed Rancho Guejito AVA and thus temperatures are less moderated by the marine air, resulting in a more continental climate with cooler nighttime temperatures that can reduce GDD accumulations.

To further demonstrate the impact of the marine influence on climate within the proposed Rancho Guejito AVA, the petition included average monthly growing season maximum and minimum temperatures from within the proposed AVA and from within the Ramona Valley AVA.[10] The Anderson Flats location within the proposed AVA sits at elevations similar to those found within the Ramona Valley AVA, yet due to marine influence, has lower maximum temperatures and warmer minimum temperatures than the Ramona Valley AVA.

TABLE 3—AVERAGE MONTHLY GROWING SEASON MAXIMUM TEMPERATURES

[degrees fahrenheit]

Month	Anderson flats (proposed AVA)	Ramona airport (Ramona Valley AVA)
April	71	73
May	73	75
June	79	84
July	83	89
August	87	91
September	85	88
October	79	81

TABLE 4—AVERAGE MONTHLY GROWING SEASON MINIMUM TEMPERATURES

[degrees fahrenheit]

Month	Anderson flats (proposed AVA)	Ramona Valley AVA
April	47	43
May	50	48
June	53	52
July	59	58
August	63	58
September	62	55
October	56	48

Comparison of the Proposed Rancho Guejito AVA to the Existing South Coast AVA

The South Coast AVA was established by T.D. ATF–218, which published in the **Federal Register** on November 21, 1985 (50 FR 48083). According to T.D. ATF–218, the primary feature of the South Coast AVA is climate affected by coastal influence.

The proposed Rancho Guejito AVA shares the coastal climate of the larger South Coast AVA. However, the proposed AVA's smaller size means that its geographic features, while varied, are more uniform than those of the much larger, multi-county South Coast AVA. Additionally, although the proposed AVA receives marine air from the Pacific Ocean, it does not receive as much as portions of the South Coast AVA that are adjacent to the Pacific Ocean.

Partial Overlap With the Existing San Pasqual Valley AVA

The proposed Rancho Guejito AVA would, if established, partially overlap 308 acres of the established San Pasqual Valley AVA in a region known as Rockwood Canyon. The overlapping region is in the southern portion of the proposed AVA and the eastern portion of the San Pasqual Valley AVA.[11] The petition requests retaining the partial overlap because the Rockwood Canyon region has characteristics of both the proposed Rancho Guejito AVA and the established San Pasqual Valley AVA.

Name Evidence

The ''Rancho Guejito'' name applies to the overlapping region, as it does to the proposed AVA. For example, Guejito Creek runs through both the

[10] The period of record is 2010–2020.

[11] See Figure 1B to the petition in Docket No. TTB–2024–0004 at *https://www.regulations.gov* for an illustration of the overlapping region.

overlapping area and the rest of the proposed AVA. A 2007 article about the sale of Rockwood Ranch, located within the overlapping region, notes that the ranch ''connects the San Pasqual Valley with Rancho Guejito.'' [12] A 2005 report from the Conservation Biology Institute on the ecological and cultural resources of Rancho Guejito notes that ''[u]pper Rockwood Canyon likely contains many large prehistoric villages,'' including the village of Puk-ke-dudl, which was ''located on the east slope of Rockwood Canyon. . .''.[13] Finally, the canyon property is currently under the ownership of Rancho Guejito Vineyards, LLC, and grapes grown in the overlapping region are bottled under the ''Rancho Guejito Vineyards'' name.

Comparison to Existing San Pasqual Valley AVA and Proposed Rancho Guejito AVA

According to the petition, in the overlapping area, the climate transitions between the middle elevations of the proposed Rancho Guejito AVA and the San Pasqual Valley AVA and shares characteristics of both regions. For example, the average monthly minimum temperatures within the overlapping area are similar to those in the established San Pasqual Valley AVA. Cool nighttime air draining from the higher elevations in the northern portion of the proposed Rancho Guejito AVA flow south and into lower elevations of the overlapping area and the San Pasqual Valley AVA. The following table shows the average monthly minimum temperatures in degrees Fahrenheit for Rockwood Canyon, within the overlapping area, and for a location solely within the San Pasqual Valley AVA.

TABLE 5—AVERAGE MONTHLY MINIMUM TEMPERATURES

Month	Rockwood Canyon	San Pasqual Valley AVA
April	46	45
May	50	50
June	54	54
July	60	59
August	59	58
September	56	55
October	49	49

However, the petition notes that the cool nighttime air remains longer in the San Pasqual Valley AVA because the east-west oriented valley acts as a cold sink to trap the cooler air, while the north-south orientation of the overlapping region allows the cold air to pass through the canyon and into the valley. As a result, nighttime temperatures in the San Pasqual Valley AVA remain cooler for more hours, reducing annual GDD accumulations. As discussed earlier in the climate section of this document, GDD accumulations in the middle and low elevations of the proposed Rancho Guejito AVA are greater than those of the San Pasqual Valley AVA.

The geology of the overlapping area also shares the traits of both the proposed AVA and the established San Pasqual Valley AVA.[14] The overlapping area is a combination of Pliocene to Holocene alluvium and Middle Jurassic to Late Cretaceous tonalite. Tonalite is the most common geologic feature in the proposed Rancho Guejito AVA. Although small amounts of tonalite also exist along the edges of the San Pasqual Valley AVA, the primary geologic feature of the valley is Pliocene to Holocene alluvium.

The proposed Rancho Guejito AVA petition stated that the proposed AVA receives between 13 and 24 inches of rain a year. Because the petition did not adequately describe the effects of precipitation on viticulture, TTB does not consider precipitation to be a distinguishing feature of the proposed AVA. However, the petition did include a map illustrating mean annual precipitation amounts for the San Pasqual Valley AVA and the proposed AVA,[15] including the overlapping Rockwood Canyon region. The map supports the petition's claim that the overlapping region shares characteristics of both the proposed AVA and the San Pasqual Valley AVA. The overlapping region averages 14 inches of rain a year, which is the same as the easternmost portion of the San Pasqual Valley AVA and the southernmost portion of the proposed Rancho Guejito AVA that is outside the overlapping area.

The petition also included information about the specific soils of the proposed Rancho Guejito AVA, but it did not provide sufficient evidence about the soils of the surrounding regions or the viticultural effects of soil for TTB to designate soils as a distinguishing feature. However, the petition did include a map of the hydrologic soils groups of the proposed AVA and the eastern portion of the San Pasqual Valley AVA.[16] The map supports the petition's claim that the overlapping region contains characteristics of both the proposed AVA and the established AVA. The hydrologic soil group map shows soil groups A (high water infiltration rate) and B (moderate water infiltration rate) are the dominant groups in the San Pasqual Valley AVA. Group B soils also appear throughout the proposed Rancho Guejito AVA. The overlapping region contains both soil groups A and B.

TTB Determination

TTB concludes that the petition to establish the 32,360-acre ''Rancho Guejito'' AVA merits consideration and public comment, as invited in this document.

Boundary Description

See the narrative boundary descriptions of the petitioned-for AVA in the proposed regulatory text published at the end of this document.

Maps

The petitioner provided the required maps, and they are listed below in the proposed regulatory text. You may also view the proposed Rancho Guejito AVA boundary on the AVA Map Explorer on the TTB website, at *https://www.ttb.gov/wine/ava-map-explorer.*

[12] *www.sohosandiego.org/reflections/2007-1/guejito_rockwood.htm.*

[13] Jerre Ann Stallcup et. al., ''Conservation Significance of Rancho Guejito—the jewel of San Diego County,'' (2005), *Consbio.org/wp-content/uploads/2022/05/RanchoGuejito_report.pdf.*

[14] See Figure 6 to the petition in Docket No. TTB–2024–0004 at *https://www.regulations.gov.*

[15] See Figure 8 to the petition in Docket No. TTB–2024–0004 at *https://www.regulations.gov.*

[16] See Figure 4 to the petition in Docket No. TTB–2024–0004 at *https://www.regulations.gov.*

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

If TTB establishes this proposed AVA, its name, ''Rancho Guejito,'' will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, wine bottlers using ''Rancho Guejito'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin if this proposed rule is adopted as a final rule. The approval of the proposed Rancho Guejito AVA would not affect any existing AVA, and any bottlers using ''South Coast'' as an appellation of origin, or in a brand name, for wines made from grapes grown within the Rancho Guejito AVA would not be affected by the establishment of this new AVA. If approved, the establishment of the proposed Rancho Guejito AVA would allow vintners to use ''Rancho Guejito,'' ''South Coast,'' or both AVA names as appellations of origin for wines made from grapes grown within the proposed Rancho Guejito AVA, if the wines meet the eligibility requirements for the appellation. Vintners would be able to use ''San Pasqual Valley,'' ''Rancho Guejito,'' ''South Coast,'' or a combination of the three AVA names as appellations of origin on wines made primarily from grapes grown within the overlapping portion of the proposed Rancho Guejito AVA, if the wines meet the eligibility requirements for the appellation.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether TTB should establish the proposed Rancho Guejito AVA. TTB is interested in receiving comments on the sufficiency and accuracy of the name, boundary, topography, geology, soils, and climate, and other required information submitted in support of the AVA petition. In addition, because the proposed Rancho Guejito AVA would be within the existing South Coast AVA, TTB is interested in comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed AVA sufficiently differentiates it from the existing South Coast AVA. TTB is also interested in comments on whether the geographic features of the proposed Rancho Guejito AVA are so distinguishable from the South Coast AVA that the proposed AVA should not be part of the established AVA. Finally, TTB is interested in comments on whether the geographic features of the portion of the established San Pasqual Valley AVA that overlap the proposed AVA are so distinguishable from the rest of the established AVA that the overlapping area should no longer be part of the San Pasqual Valley AVA. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Rancho Guejito AVA on wine labels that include the term ''Rancho Guejito'' as discussed above under Impact on Current Wine Labels, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed area names and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the proposed AVA.

Submitting Comments

You may submit comments on this proposal as an individual or on behalf of a business or other organization via the *Regulations.gov* website or via postal mail, as described in the **ADDRESSES** section of this document. Your comment must reference Notice No. 233 and must be submitted or postmarked by the closing date shown in the **DATES** section of this document. You may upload or include attachments with your comment. You also may submit a comment requesting a public hearing on this proposal. The TTB Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality and Disclosure of Comments

All submitted comments and attachments are part of the rulemaking record and are subject to public disclosure. Do not enclose any material in your comments that you consider confidential or that is inappropriate for disclosure.

TTB will post, and you may view, copies of this document, the related petition, supporting materials, and any comments TTB receives about this proposal within the related *Regulations.gov* docket. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment.

Please contact TTB's Regulations and Rulings division by email using the web form available at *https://www.ttb.gov/contact-rrd,* or by telephone at 202–453–2265, if you have any questions regarding comments on this proposal or to request copies of this document, its supporting materials, or the comments received.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993, as amended. Therefore, no regulatory assessment is required.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, we propose to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.___ to read as follows:

§ 9.___ Rancho Guejito.

(a) *Name.* The name of the viticultural area described in this section is ''Rancho Guejito''. For purposes of part 4 of this chapter, ''Rancho Guejito'' is a term of viticultural significance.

(b) *Approved maps.* The 5 United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the viticultural area are titled:

(1) San Pasqual, CA, 2018;

(2) Rodriguez Mountain, CA, 2018;

(3) Boucher Hill, CA, 2018;

(4) Palomar Observatory, CA, 2018; and

(5) Mesa Grande, CA, 2018.

(c) *Boundary.* The Rancho Guejito viticultural area is located in San Diego County in California. The boundary of the Rancho Guejito viticultural area is as described as follows:

(1) The beginning point is on the San Pasqual map at the intersection of State Route 78 (locally known as San Pasqual Valley Road) and Santa Ysabel Creek. From the beginning point, proceed northwest, then west, then southwest along State Route 78 to its intersection with the western boundary of Section 35, T12S/R1W; then

(2) Proceed northwest in a straight line to the 992-foot elevation point in Section 27, T12S/R1W; then

(3) Proceed northwest in a straight line to the 1,480-foot elevation point in Section 27, T12S/R1W; then

(4) Proceed northwest in a straight line to the intersection of the western boundary of Section 22, T12S/R1W, and the 1,100-foot elevation contour; then

(5) Proceed north along the western boundary of Section 22, T12S/R1W, to the northern boundary of Section 22; then

(6) Proceed east along the north boundary of Section 22, T12S/R1W, to the 1,798-foot elevation point; then

(7) Proceed northeasterly in a straight line for 2,300 feet, crossing onto the Rodriguez Mountain map, to the 2,218-foot elevation point in Section 15, T12S/R1W; then

(8) Proceed north in a straight line for 3,100 feet to the 2,237-foot elevation point in Section 15, T12S/R1W; then

(9) Proceed northerly in a straight line for 5,900 feet to the intersection of Old Melrose Ranch Road and New Moon Lane in Section 3, T12S/R1W; then

(10) Proceed northwest in a straight line, crossing the peak of French Mountain and over Escondido Creek, to the 1,520-foot elevation contour in section 34, T12S/R1W; then

(11) Proceed northeasterly along the 1,520-foot elevation contour for 1,300 feet to its intersection with Escondido Creek; then

(12) Proceed easterly along Escondido Creek to its easternmost point in Section 25, T12S/R1W; then

(13) Proceed northerly in a straight line for 8,100 feet to the 2,300-foot elevation contour north of Sierra Verde Road in Section 24, T12S/R1W; then

(14) Proceed northeast in a straight line for 13,000 feet to the peak of Rodriguez Mountain with an elevation of 3,846 feet in Section 8, T12S/R1W; then

(15) Proceed northeasterly in a straight line for 9,500 feet, crossing onto the Boucher Hill map, to the northern boundary of Section 4, T11S/R1E, which is also concurrent with the boundary of the La Jolla Indian Reservation; then

(16) Proceed east along the northern boundary of Section 4 for 15,900 feet, crossing onto the Palomar Observatory map, and continuing along the northern boundaries of Sections 3, 2, and 1, T11S/R1E, to the second intersection of the northern boundary of Section 1 and the 3,200-foot elevation contour; then

(17) Proceed due south in a straight line for 6,500 feet, crossing onto the Mesa Grande map, to the intersection of an unnamed road known locally as Pine Mountain Road and the 3,500-foot elevation contour in Section 12, T11S/R1E; then

(18) Proceed southeasterly along Pine Mountain Road for 3,800 feet to its intersection with the 3,440-foot elevation contour in Section 12, T11S/R1E; then

(19) Proceed southwesterly in a straight line for 6,910 feet to the northeast corner of Section 23, T11S/R1E; then

(20) Proceed due south along the eastern boundary of Section 23 for 4,600 feet to its intersection with Temescal Creek; then

(21) Proceed southwesterly along Temescal Creek for 6,800 feet to its intersection with the northern boundary of Section 35, T11S/R1E; then

(22) Proceed west along the northern boundary of Sections 35 and 34, crossing onto the Rodriguez Mountain map, to the northwestern corner of Section 34; then

(23) Proceed south along the western boundary of Section 34, T11S/R1E, to the northeastern corner of Section 4, T12S/R1E; then

(24) Proceed south along the eastern boundary of Section 4 to its intersection with the 1,600-foot elevation contour; then

(25) Proceed northwest in a straight line to the northernmost point of an unnamed pond in Section 4, T12S/R1E; then

(26) Proceed southwest in a straight line to the intersection of the eastern boundary of Section 8, T12S/R1E, and the Guejito Truck Trail; then

(27) Proceed southwesterly along the Guejito Truck Trail, crossing onto the San Pasqual map, to its intersection with the northern boundary of Section 10, T12S/R1E; then

(28) Proceed southwesterly in a straight line to the 1,880-foot elevation point in Section 20; then

(29) Proceed southwest in a straight line for 3,650 feet to the 1,937-foot elevation point in Section 29, T12S/R1E; then

(30) Proceed southwest in a straight line for 5,400 feet to the southern boundary of Section 30, T12S/R1E; then

(31) Proceed west along the southern boundaries of Sections 30 and 25 to the southwestern corner of Section 25, T12S/R1E; then

(32) Proceed southwesterly in a straight line to the beginning point.

Signed: August 16, 2024.

Mary G. Ryan,

Administrator.

Approved: August 19, 2024.

Aviva R. Aron-Dine,

Acting Assistant Secretary (Tax Policy).

[FR Doc. 2024–19415 Filed 8–28–24; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R01–RCRA–2023–0612; FRL 11619–01–R1]

Rhode Island: Final Authorization of State Hazardous Waste Management Program Revisions and Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed action.

SUMMARY: Rhode Island has applied to EPA for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. EPA proposes to grant final authorization to

Rhode Island for these revisions by a final action, which can be found in the ''Rules and Regulations'' section of this **Federal Register**. We have explained the reasons for this authorization in the preamble to the final action. The action also corrects errors made in the State authorization citations published in the March 12, 1990, March 5, 1992, October 2, 1992, and August 9, 2002 **Federal Register**. Unless EPA receives written comments that oppose this authorization during the comment period, the final action will become effective on the date it establishes and EPA will not take further action on this proposal.

DATES: Send your written comments by September 30, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–RCRA–2023–0612 by mail to Liz McCarthy or Joe Hayes, RCRA Waste Management and Lead Branch; Land, Chemicals, and Redevelopment Division; EPA Region 1, 5 Post Office Square, Suite 100 (Mailcode 07–1), Boston, MA 02109–3912. You may also submit comments electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the final action located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Liz McCarthy or Joe Hayes at (617) 918–1447; (617) 918–1362, *mccarthy.liz@epa.gov; Hayes.Joseph@epa.gov*.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the revisions by a final action. EPA did not make a proposal prior to the final action because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble of the final action.

Unless EPA receives written comments that oppose this authorization during the comment period, the final action will become effective on the date it establishes, and EPA will not take further action on this proposal. If EPA receives comments that oppose the authorization, we will withdraw the final action and it will not take immediate effect. EPA will then respond to public comments in a later final action based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

David W. Cash,

Regional Administrator, U.S. EPA Region 1.

[FR Doc. 2024–19035 Filed 8–28–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 17, 36, and 52

[FAR Case 2023–003; Docket No. FAR–2023–0003; Sequence No. 1]

RIN 9000–AO51

Federal Acquisition Regulation: Prohibition on the Use of Reverse Auctions for Complex, Specialized, or Substantial Design and Construction Services

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement a section of the Construction Consensus Improvement Act of 2021 that prohibits the use of reverse auctions for certain construction services.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before October 28, 2024, to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2023–003 to the Federal eRulemaking portal at *https://www.regulations.gov* by searching for ''FAR Case 2023–003''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2023–003''. Follow the instructions provided on the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2023–003'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite ''FAR Case 2023–003'' in all correspondence related to this case. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. Public comments may be submitted as an individual, as an organization, or anonymously (see frequently asked questions at *https://www.regulations.gov/faq*). To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Michael O. Jackson, Procurement Analyst, at 202–821–9776 or by email at *michaelo.jackson@gsa.gov*. For information pertaining to status, publication schedules, or alternate instructions for submitting comments if *https://www.regulations.gov* cannot be used, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov*. Please cite FAR Case 2023–003.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR to implement section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28). Section 2 of the Construction Consensus Procurement Improvement Act of 2021 amended section 402 of Title IV of Division U of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) entitled the Construction Consensus Procurement Improvement Act of 2020 to require rulemaking to promulgate a definition of ''complex, specialized, or substantial design and construction services'', which includes site planning and design; architectural and engineering services (as defined in 40 U.S.C. 1102); interior design; performance of substantial construction work for facility, infrastructure, and environmental restoration projects; and construction or substantial alteration of public buildings or public works. The statute prohibits the use of reverse auctions for such services having a value that exceeds the simplified acquisition threshold (SAT).

II. Discussion and Analysis

The proposed rule establishes a new definition at FAR 2.101 for ''complex, specialized, or substantial design and construction services'' that reflects the statutory definition to support its use at FAR 17.803 and 36.103. In addition, the definition of ''reverse auction'' in FAR 2.101 is revised to better reflect the statutory definition provided in the Construction Consensus Procurement Improvement Act of 2021.

The proposed rule implements the prohibition against using reverse auctions for the procurement of complex, specialized, or substantial design and construction services exceeding the SAT at FAR 36.103, Methods of contracting. This placement will reinforce to contracting officers the need to comply with the statutory prohibition. While the statute does not prohibit the use of reverse auctions for the subject services at or below the SAT, a reverse auction may only be used if market research indicates it is appropriate (see FAR 17.802(a)) and not prohibited by regulation or statute (see FAR 17.803, 36.104, and 36.601).

The FAR identifies two types of procurements for which reverse auctions may not be used, regardless of dollar value:

—Procurements for the design and construction of a public building, facility or work using the two-phase design-build selection procedures authorized by 10 U.S.C. 3241 and 41 U.S.C. 3309, as implemented at FAR 36.104, may not be conducted using a reverse auction.

—Procurements for architectural and engineering services subject to 40 U.S.C. chapter 11, commonly known as the Brooks Architect Engineer Act, may not be awarded using reverse auctions because reverse auctions do not comply with the qualifications-based selection processes required by statute and implemented at FAR subpart 36.6.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items) or for Commercial Services

This proposed rule does not impose any new requirements on contracts at or below the simplified acquisition threshold, for commercial products including commercially available off-the-shelf items, or for commercial services.

IV. Expected Impact of the Proposed Rule

The proposed rule is not expected to have a significant impact on the public or the Government because the rulemaking does not supersede current statutory direction on the use of FAR part 36 procedures for construction. Contracting officers are still required to conduct market research to determine the most appropriate contracting method for the particular procurement. Requirements for sealed bidding, design-build construction, and architect-engineering services remain unchanged.

Offerors participating in competitive procurements that are valued at or below the SAT will still be provided advance notices and solicitations in accordance with FAR 36.211 and for actions anticipated to be awarded to a small business, 15 U.S.C. 644(w). Use of a reverse auction as the method of obtaining pricing does not impact these requirements.

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 (as amended by E.O. 14094) and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612, because the rulemaking is not expected to change how construction services valued above the SAT are conducted while providing some flexibility for certain awards valued at or below the SAT. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28), which prohibits the use of reverse auctions for complex, specialized, or substantial design and construction services exceeding the simplified acquisition threshold (SAT). DoD, GSA, and NASA published FAR case 2015–038, Reverse Auction Guidance, as a final rule at 89 FR 61327 on July 30, 2024, with an effective date of August 29, 2024. The final rule added policy on the use of reverse auctions to the FAR.

The objective of the proposed rule is to establish a definition for complex, specialized, or substantial design and construction services and to implement the statutory prohibition against using reverse auctions for such services that are valued above the SAT. The legal basis for the rule is the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28). Promulgation of the FAR is authorized by 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C 20113.

The proposed rule will apply to all entities submitting offers in response to solicitations for construction services pursuant to FAR part 36; however, the impact of the rule on construction services valued above the SAT is expected to be de minimis because the rule maintains current direction.

The rule may impact entities submitting offers in response to solicitations for construction services valued at or below the SAT, if a contracting officer determines that market research supports the use of a reverse auction and the use of a reverse auction is not otherwise prohibited by statute (*i.e.,* 40 U.S.C. chapter 11, commonly known as the Brooks Architect Engineer Act).

Since the Government does not currently collect data on the number of awards that utilized a reverse auction to obtain pricing, the burden estimates are based upon data obtained from the Federal Procurement Data System (FPDS) for all construction services. The Government assumes that reverse auctions are not widely used for construction services, so the actual number of procurements utilizing reverse auctions is estimated to be only a small fraction of the total awards described below.

Data obtained from FPDS for fiscal years 2020, 2021, and 2022 indicates that an average of 1,318 unique small entities were awarded an estimated 2,644 construction service awards valued above the SAT annually. Data obtained from FPDS for the same period indicates that an average of 1,277 unique small entities were awarded an estimated 3,064 construction service awards valued at or below the SAT annually. Of those actions, approximately 122 small entities were awarded an estimated 577 construction service awards annually using procedures other than FAR part 36. For awards at or below the SAT, the use of reverse auctions to obtain pricing may be appropriate.

The proposed rule does not include additional reporting or recordkeeping requirements.

The proposed rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no available alternatives to the proposed rule to accomplish the desired objective.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in

subparts affected by the proposed rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2023–003), in correspondence.

VII. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

List of Subjects in 48 CFR Parts 2, 17, 36, and 52

Government procurement.

William F. Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 2, 17, 36, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 17, 36, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 by—
■ a. Adding in alphabetic order the definition of ''Complex, specialized, or substantial design and construction services''; and
■ b. Revising the definition of ''Reverse auction''.

The addition and revision read as follows:

2.101 Definitions.

* * * * *

Complex, specialized, or substantial design and construction services (section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28)) means—

(1) Site planning and landscape design;

(2) Architectural and engineering services (as defined in 40 U.S.C. 1102);

(3) Interior design;

(4) Performance of substantial construction work for facility, infrastructure, and environmental restoration projects; or

(5) Construction or substantial alteration of public buildings or public works.

* * * * *

Reverse auction means a real-time auction generally conducted through an electronic medium among two or more offerors who compete by submitting bids for an award of a supply contract, service contract, purchase order, or blanket purchase agreement, or for an award of an order under a contract or blanket purchase agreement, with the ability to submit revised lower bids at any time before the closing of the auction (section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28)).

* * * * *

PART 17—SPECIAL CONTRACTING METHODS

■ 3. Amend section 17.803 by—
■ a. Revising paragraph (a);
■ b. Removing paragraph (b); and
■ c. Redesignating paragraphs (c) and (d) as paragraphs (b) and (c).

The revision reads as follows:

17.803 Applicability.

* * * * *

(a) Complex, specialized, or substantial design and construction services as defined in 2.101, valued above the simplified acquisition threshold (see 36.103(c));

* * * * *

PART 36—CONSTRUCTION AND ARCHITECT–ENGINEER CONTRACTS

■ 4. Amend section 36.103 by adding paragraph (c) to read as follows:

36.103 Methods of contracting.

* * * * *

(c) Contracting officers shall not use reverse auctions for an award of a contract, blanket purchase agreement, or order if the award is anticipated to exceed the simplified acquisition threshold for complex, specialized, or substantial design and construction services in accordance with the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28). Contracting officers may use reverse auctions for procurements for complex, specialized, or substantial design and construction services at or below the simplified acquisition threshold—

(1) If market research indicates it may be appropriate (see 17.802(a)); and

(2) Use of a reverse auction is not otherwise prohibited by regulation or statute (see 17.803, 36.104, and 36.601).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 52.217–10 by—
■ a. Revising the date of the provision; and
■ b. In paragraph (a), revising the definition of ''Reverse auction''.

The revisions read as follows:

52.217–10 Reverse Auction.

* * * * *

Reverse Auction (DATE)

(a) * * *

Reverse auction means a real-time auction generally conducted through an electronic medium among two or more offerors who compete by submitting bids for an award of a supply contract, service contract, purchase order, or blanket purchase agreement, or for an award of an order under a contract or blanket purchase agreement, with the ability to submit revised lower bids at any time before the closing of the auction (Section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28)).

* * * * *

■ 6. Amend section 52.217–11 by—
■ a. Revising the date of the clause; and
■ b. In paragraph (a), revising the definition of ''Reverse auction''.

The revisions read as follows:

52.217–11 Reverse Auction-Orders.

* * * * *

Reverse Auction—Orders (DATE)

(a) * * *

Reverse auction means a real-time auction generally conducted through an electronic medium among two or more offerors who compete by submitting bids for an award of a supply contract, service contract, purchase order, or blanket purchase agreement, or for an award of an order under a contract or blanket purchase agreement, with the ability to submit revised lower bids at any time before the closing of the auction (Section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28)).

* * * * *

■ 7. Amend section 52.217–12 by—
■ a. Revising the date of the clause; and
■ b. In paragraph (a), revising the introductory text and the definition of ''Reverse auction''.

The revisions read as follows:

52.217–12 Reverse Auction Services.

* * * * *

Reverse Auction Services (DATE)

(a) *Definitions.* As used in this clause—

* * * * *

Reverse auction means a real-time auction generally conducted through an electronic medium among two or more offerors who compete by submitting bids for an award of a supply contract, service contract, purchase order, or blanket purchase agreement, or for an

award of an order under a contract or blanket purchase agreement, with the ability to submit revised lower bids at any time before the closing of the auction (Section 2 of the Construction Consensus Procurement Improvement Act of 2021 (Pub. L. 117–28)).

* * * * *

[FR Doc. 2024–19024 Filed 8–28–24; 8:45 am]

BILLING CODE 6820–EP–P

Notices

Federal Register
Vol. 89, No. 168
Thursday, August 29, 2024

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

UNITED STATES AFRICAN DEVELOPMENT FOUNDATION

Public Quarterly Meeting of the Board of Directors

AGENCY: United States African Development Foundation.

ACTION: Notice of meeting.

SUMMARY: The U.S. African Development Foundation (USADF) will hold its quarterly meeting of the Board of Directors to discuss the agency's programs and administration. This meeting will occur at the USADF office.

DATES: The meeting date is Monday, September 9, 2024, 9:00 a.m. to 12:00 noon.

ADDRESSES: The meeting location is USADF, 1400 I St. NW, Suite 1000, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Kerline Perry, (202)233–8805.

Authority: Public Law 96–533 (22 U.S.C. 290h).

Dated: August 20, 2024.

Wendy Carver,

Business Manager.

[FR Doc. 2024–19407 Filed 8–28–24; 8:45 am]

BILLING CODE 6117–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments regarding these information collections are best assured of having their full effect if received by September 30, 2024. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Regulations Governing the Voluntary Grading of Shell Eggs, Poultry Products, and Rabbit Products—7 CFR parts 54, 56, 62 and 70.

OMB Control Number: 0581–0128.

Summary of Collection: The Agricultural Marketing Act of 1946 (60 Stat. 1087–1091, as amended; 7 U.S.C. 1621–1627) hereinafter referred to as the ''Act,'' authorizes the Secretary of Agriculture to provide consumers with voluntary Federal grading and certification services that facilitate the marketing of agricultural commodities. The Quality Assessment Division (QAD) provides these services under the authority of 7 CFR parts 54, 56, and 70. The regulations provide a voluntary program for grading and certification services based on U.S. standards, grades, and weight classes to enable orderly marketing of the corresponding agricultural products. The regulation in 7 CFR part 62—AMS Audit Verification and Accreditation Programs (AVAAP) is a collection of voluntary, audit-based, user-fee funded programs that allow applicants to have program documentation and program processes assessed by Agricultural Marketing Service (AMS) auditor(s) and other USDA officials. Services are made available to respondents who request it and provided on a user fee-for-service basis. The Regulations provide provisions for the collection of fees from users of QAD services. To facilitate QAD services, a minimal amount of information collection and/or documentation is required using Forms LP–109, LP–110, LP–157, LP–210P, LP–210S, LP–234, LP–240P, and LP–240S. Information on these forms is collected only from respondents who elect to utilize QAD voluntary user fee-for-service.

Need and Use of the Information: Using forms LPS–109, LPS–110, LPS–157, LPS–240P, LPS–240S, LPS–210P, LPS–210S and LPS–234, information is collected only from respondents who elect to utilize this voluntary user fee-for-service. Only authorized representatives of the USDA use the information collected. The information is used to administer, conduct and carry out the grading services requested by the respondents. If the information were not collected, the agency would not be able to provide the voluntary grading services authorized and requested by congress, provide the types of services requested by industry, administer the program, ensure properly grade-labeled products, calculate the cost of the service or collect for the cost furnishing service.

Description of Respondents: Business or other for profit, Farms.

Number of Respondents: 1,483.

Frequency of Responses: Reporting: On occasion; Semi-annually; Monthly; Annually; Other (daily).

Total Burden Hours: 12,168.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–19439 Filed 8–28–24; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information

collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received September 30, 2024 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of the Assistant Secretary for Civil Rights

Title: USDA Program Discrimination Complaint Form.

OMB Control Number: 0508–0002.

Summary of Collection: Under 7 CFR 15.6 ''any person who believes himself or any specific class of individuals to be subjected to discrimination . . . may by himself or by an authorized representative file a written complaint based on the ground of such discrimination.'' The collection of this information is the avenue by which the individual or his representative may file such a complaint. The requested information is necessary for the Office of the Assistant Civil Rights to address the alleged discriminatory action.

Need and Use of the Information: The requested information which can be submitted by filling out the USDA Program Discrimination Form or by submitting written correspondence, is necessary in order for the USDA Office of the Assistant Secretary for Civil Rights (OASCR) to address the alleged discriminatory action. The respondent is asked to provide his/her name, mailing address, property address (if different from mailing address), telephone number, email address (if any) and to provide a name and contact information for the respondent's representative (if any). A brief description of who was involved with the alleged discriminatory action, what occurred and when, is requested. The program discrimination complaint filing information, which is voluntarily provided by the respondent. OASCR uses the form information obtained from the respondent to evaluate, investigate, attempt resolution, and process alleged complaints. If information regarding alleged discrimination is not collected from the individual who believes he/she has experienced discrimination in a USDA program, it would not be possible for the USDA to address and rectify the alleged discrimination.

Description of Respondents: Individuals/Households: Producers, applicants, and USDA customers.

Number of Respondents: 280.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 280.

Rachelle Ragland-Greene,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–19463 Filed 8–28–24; 8:45 am]

BILLING CODE 3410–9R–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2024–0043]

Notice of Request for Extension of Approval of an Information Collection; Highly Pathogenic Avian Influenza; Testing, Surveillance, and Reporting of Highly Pathogenic Avian Influenza in Livestock; Dairy Herd Certification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with testing, surveillance, and reporting of the incidence of highly pathogenic avian influenza in dairy cattle, and certification of dairy cattle herds as a result of testing.

DATES: We will consider all comments that we receive on or before October 28, 2024.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2024–0043 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2024–0043, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on APHIS' Veterinary Services efforts to control and eradicate HPAI in dairy cattle, contact Dr. Megan Schmid, Assistant Director, Cattle Health Center, VS, APHIS, 2150 Centre Ave., Bldg. B, Fort Collins, CO 80524; (512) 745–9862; email: *megan.j.schmid@usda.gov.* For more detailed information on the information collection process, contact Mr. Joseph Moxey, APHIS' Paperwork Reduction Act Coordinator; (301) 851–2533; email: *joseph.moxey@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Highly Pathogenic Avian Influenza; Testing, Surveillance, and Reporting of Highly Pathogenic Avian Influenza in Livestock; Dairy Herd Certification.

OMB Control Number: 0579–0494.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal Health Protection Act (AHPA) of 2002 [1] is the primary Federal law governing the protection of animal health. The law gives the Secretary of the U.S. Department of Agriculture (USDA) broad authority to detect, control, or eradicate pests or diseases of livestock

[1] The AHPA is contained in title X, subtitle E, sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002; 7 U.S.C. 8301, *et seq.*

or poultry. The Secretary may also prohibit or restrict the importation or export of any animal or related material if required to prevent the spread of any livestock or poultry pest or disease. Within the USDA, the Animal and Plant Health Inspection Services' (APHIS'), Veterinary Service (VS) is tasked with these missions.

Highly pathogenic avian influenza (HPAI) is a contagious viral disease of domestic poultry and wild birds. HPAI is deadly to domestic poultry and can wipe out entire flocks within a matter of days. HPAI is a threat to the poultry industry, animal health, human health, trade, and the economy worldwide. In the United States, HPAI H5N1 has been detected in dairy cattle. As of August 23, 2024, USDA has confirmed 192 HPAI H5N1 clade 2.3.4.4b virus detections in cattle in 13 States (Colorado, Kansas, Idaho, Iowa, Michigan, Minnesota, New Mexico, North Carolina, Ohio, Oklahoma, South Dakota, Texas, and Wyoming). APHIS has also confirmed, based on specific phylogenetic evidence and epidemiological information, that 48 poultry premises have also been infected with the same HPAI H5N1 virus genotype detected in dairy cattle.

The USDA has already recognized HPAI as a threat, and APHIS already prohibits the interstate movement of animals infected with HPAI. (See 9 CFR 71.3(b).) However, this new, distinct HPAI H5N1 virus genotype poses a new animal disease risk as it can infect both cattle and poultry. The phylogenetic and epidemiological data indicate spread between dairy premises, and concerningly, given the far more severe effects of the disease in poultry, from dairy premises to poultry premises. The virus is shed in milk at high concentrations. Anything that encounters unpasteurized milk, such as spilled milk, or milk residue, has the potential to spread the virus to humans or other animals, and can contaminate vehicles and other objects or materials. Spread has occurred via not only directly spilled milk but also from contaminated objects. These factors indicate this outbreak is having an immediate and sizeable economic impact that could linger.

On April 24, 2024, APHIS announced a Federal Order [2] to assist with developing a baseline of critical information and limiting the spread of H5N1 in dairy cattle. The Federal Order requires testing lactating dairy cattle prior to interstate movement and mandatory reporting from laboratories of positive Influenza A cases in livestock. The Federal Order also requires infected dairy cattle premises to not move lactating dairy cattle interstate for 30 days and to provide epidemiological information, including animal movement tracing, via a questionnaire. Movement of tested, cleared cattle will require a Certificate of Veterinary Inspection and a movement permit. This Federal Order went into effect on April 29, 2024. APHIS is working with State and industry partners to encourage farmers and veterinarians to report cattle illnesses quickly and implement biosecurity measures and response plans (set forth in biosecurity plans, herd monitoring plans, and response and containment plans) so that APHIS can monitor new cases and minimize the impact to farmers, consumers, and other animals.

Along with the Federal Order, APHIS announced that it is reimbursing the National Animal Health Laboratory Network for all pre-movement and other testing (asymptomatic herd testing and testing of suspect animals), as well as providing confirmatory testing at the National Veterinary Services Laboratories. APHIS is also working to strengthen ongoing herd surveillance through the HPAI Dairy Herd Status Program, which will use bulk milk testing.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the proposed collection of information is necessary for the control and/or eradication of HPAI in dairy cattle, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, use, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, or other collection techniques or other technologies.

Estimate of burden: The public burden for this collection of information is estimated to average 3.79 hours per response.

Respondents: Dairy cattle producers; State, local, and Tribal governments; laboratory staff; accredited veterinarians; and other individuals, as appropriate.

Estimated annual number of respondents: 6,052.

Estimated annual number of responses per respondent: 23.

Estimated annual number of responses: 136,504.

Estimated total annual burden on respondents: 518,066 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 26th day of August 2024.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2024–19469 Filed 8–28–24; 8:45 am]

BILLING CODE 3410–34–P

[2] *https://www.aphis.usda.gov/sites/default/files/dairy-federal-order.pdf.*

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Service Manual 2470, Silvicultural Practices

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of availability for public comment, correction.

SUMMARY: The United States Department of Agriculture, Forest Service (Agency), published a document in the **Federal Register** on July 16, 2024, concerning Notice of availability for public comment for the Forest Service Manual 2470, Silvicultural Practices. The document contained incorrect links to access the reading room and to make a comment.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of August 16, 2024, in FR Doc. 2024–18353, on Pages 66671–66672 in the second column, correct under the **DATES** and **ADDRESSESS** caption to read:

DATES: Comments must be received in writing by October 28, 2024.

ADDRESSESS: Comments may be submitted electronically to *https://cara.fs2c.usda.gov/Public/CommentInput?project=Directives-4178.* Written comments may be mailed to Stephanie Miller, Assistant Director for Future Forest, Denver Federal Center,

Building 40 Lakewood, CO 80215. All timely received comments, including names and addresses, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received at *https://cara.fs2c.usda.gov/Public/ReadingRoom?project=Directives-4178.*

Dated: August 26, 2024.

Steve Morse,

Liaison.

[FR Doc. 2024–18797 Filed 8–28–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes-Ochoco Resource Advisory Committee

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of meeting.

SUMMARY: The Deschutes-Ochoco Resource Advisory Committee will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Deschutes and Ochoco National Forests and Crooked River National Grassland within Crook, Deschutes, Grant, Harney, Jefferson, Lake, Klamath, and Wheeler counties consistent with the Federal Lands Recreation Enhancement Act.

DATES: An in-person meeting and virtual meeting will be held on September 12, 2024, 8 a.m. to 5 p.m. (Pacific Daylight Time) and September 13, 2024, 8 a.m. to 5 p.m. (Pacific Daylight Time).

Written and Oral Comments: Anyone wishing to provide in-person and/or virtual oral comments must pre-register by 11:59 p.m. (Pacific Daylight Time) on September 6, 2024. Written public comments will be accepted by 11:59 p.m. (Pacific Daylight Time) on September 6, 2024. Comments submitted after this date will be provided by the Forest Service to the committee, but the committee may not have adequate time to consider those comments prior to the meeting.

All committee meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: This meeting will be held in-person at the Deschutes National Forest Supervisor's Office, located at 63095 Deschutes Market Road, Bend, Oregon 97701. The public may also join virtually via teleconference. Committee information and details about accessing the meeting virtually can found on the advisory committee website at *https://www.fs.usda.gov/detail/deschutes/workingtogether/advisorycommittees/?cid=fsep rd1027685* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written Comments: Written comments must be sent by email to *alexander.enna@usda.gov* or via mail (postmarked) to Alex Enna, Deschutes National Forest, 63095 Deschutes Market Road, Bend, Oregon 97701. The Forest Service strongly prefers comments be submitted electronically.

Oral Comments: Persons or organizations wishing to make oral comments must preregister by 11:59 p.m. (Pacific Daylight Time) September 6, 2024, and speakers can only register for one speaking slot. Oral comments must be sent by email to *alexander.enna@usda.gov* or via mail (postmarked) to Alex Enna, Deschutes National Forest, 63095 Deschutes Market Road, Bend, Oregon 97701.

FOR FURTHER INFORMATION CONTACT: Kevin Larkin, Designated Federal Officer, by phone at 541–389–5109 or email at *kevin.larkin@usda.gov*; or Alex Enna, Resource Advisory Committee Coordinator, by phone at 541–410–1691 or email at *alexander.enna@usda.gov*.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Elect a chairperson;
2. Approve the committee administrative overhead rates.
3. Hear from Title II project proponents and discuss Title II project proposals;
4. Make funding recommendations on Title II projects;
5. Approve meeting minutes; and
6. Schedule the next meeting; and

The agenda will include time for individuals to make oral statements of three minutes or less. To be scheduled on the agenda, individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date. Written comments may be submitted to the Forest Service up to 14 days after the meeting date listed under **DATES**.

Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**, by or before the deadline, for all questions related to the meeting. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

Meeting Accommodations: The meeting location is compliant with the Americans with Disabilities Act, and the USDA provides reasonable accommodation to individuals with disabilities where appropriate. If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpretation, assistive listening devices, or other reasonable accommodation to the person listed under the **FOR FURTHER INFORMATION CONTACT** section or contact USDA's TARGET Center at 202–720–2600 (voice and TTY) or USDA through the Federal Relay Service at 800–877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the committee. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities. USDA is an equal opportunity provider, employer, and lender.

Dated: August 1, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024–17441 Filed 8–28–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Business Trends and Outlook Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on November 9, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Business Trends and Outlook Survey.

OMB Control Number: 0607–1022.

Form Number(s): This online survey has no form number.

Type of Request: Regular submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: 795,000.

Average Hours per Response: 10 minutes.

Burden Hours: 132,500.

Needs and Uses: The mission of the U.S. Census Bureau (Census Bureau) is to serve as the leading source of quality data about the nation's people and economy; to fulfill this mission, it is necessary to innovate to produce more detailed, more frequent, and more timely data products. The Coronavirus pandemic was an impetus for the creation of new data products by the Census Bureau to measure the pandemic's impact on the economy: the Small Business Pulse Survey (SBPS) and the weekly Business Formation Statistics. Policymakers and other Federal agency officials, media outlets, and academia commended the Census Bureau's rapid response to their data needs during the largest economic crisis in recent American history. The Census Bureau capitalized on the successes that underlaid the high frequency data collection and near real time data dissemination engineered for the SBPS by creating the Business Trends and Outlook Survey (BTOS).

BTOS uses ongoing data collection to produce high frequency, timely, and granular information about current economic conditions and trends. BTOS is the only biweekly business tendency survey produced by the Federal statistical system, providing unique and detailed data during times of economic or other emergencies. The BTOS target population is all nonfarm employer businesses with receipts of $1,000 or more in the United States, the District of Columbia, and Puerto Rico. The current sample consists of approximately 1.2 million businesses split into six panels. Data collection occurs every two weeks, and businesses in each panel are asked to report once every 12 weeks for one year. Current BTOS data are representative of all employer businesses (excluding farms) in the U.S. economy and are published every two weeks. The data are available at the national and State levels, in addition to the 25 most-populous Metropolitan Statistical Areas (MSAs). North American Industry Classification System (NAICS) sector, subsector, and State by sector are also published, as are employment size class, and sector by employment size class data, according to the same timeline.

Data from BTOS are currently used to provide timely data to understand the economic conditions being experienced by businesses; BTOS provides near real time data on key items such as revenue, paid employees, hours worked as well as inventories which was being added in for the second sample collection year. A new sample collection is conducted each year.

BTOS also provides high level information on the changing share of businesses facing difficulties stemming from supply chain issues, interest rate changes, or weather events. Previously, there had been few data sources available to policymakers, media outlets, and academia that delivered near real-time insights into economic trends and outlooks. BTOS data has been used by the Small Business Administration to evaluate the impact of regulatory changes. The use of the BTOS data (or additional requirements) is still being determined by the Economic Development Agency (EDA) to understand the impact of natural disasters on U.S. businesses. The EDA will then guide the Federal Emergency Management Agency (FEMA) and/or policymakers in assisting in economic recovery support missions.

In the approved OMB package for BTOS, the Census Bureau proposed an incremental path to reach the full scope of BTOS. The first scope expansion proposed adding multi-unit businesses (those with more than one location or establishment) to BTOS. BTOS was limited in scope to include only single-unit businesses. Despite comprising a relatively small share of the total number of businesses, multi-unit (MU) businesses are responsible for most of the employment, payroll, and revenue/sales in the United States and contribute disproportionately to economic activity. In addition, MU businesses are on average larger than single-unit businesses. Adding these businesses helped ensure BTOS results are representative of the full economy. The Census Bureau still proposes an incremental path to the final scope of BTOS to learn at each implemented stage and to allow for modifications based on lessons learned or internal/external stakeholder feedback in prior iterations.

For the first year of BTOS, the content remained unchanged at 26 questions. For the second year, the Census Bureau moved to a set of core questions and supplemental content. Core content includes measures of economic activity that are broadly applicable across non-farm sectors and are important across the business cycle and during economic or other emergencies. Core content is also complementary to key items found on other Economic surveys, such as revenues, employees, hours, and inventories. Core items may also include concepts that may become core topics, such as the artificial intelligence questions that started in the second year.

Supplemental content is added to the BTOS instrument as needed and on a periodic basis. It will be designed to provide urgently needed data on an emerging or current issue. The supplement will include a set of questions that perform a deeper dive into a focused topic that requires timely data. On average, the Census Bureau estimates the supplemental questions will impose an additional 10 minutes of burden.

Consideration for core and supplemental concepts will be based on data consistency, how the questions performed on the current BTOS, the results of cognitive testing, stakeholder feedback, and the ability to collect complementary items on monthly, quarterly, annual, or census programs to provide context and benchmarking.

For future changes, the Census Bureau will submit a request to OMB including 30 days of public comment announced in the **Federal Register** to receive approval to make any substantive revisions to the content or methods of the proposed survey, including incremental scope changes. It is likely

new supplemental content will be chosen for each year and an updated instrument will be submitted to OMB for review along with a 30-day **Federal Register** Notice.

The Census Bureau is requesting the addition of a new question to the core set. This question expands on an existing core question that currently asks whether the business experienced any monetary issues due to an extreme weather event. The new question will ask about the type of extreme weather event, offering thirteen different options plus a write-in choice. This new question will only be asked if the response to the previous question indicates that monetary issues were experienced. The addition of this question aims to enhance our understanding of how various weather-related events impact business operations, including identifying specific weather disruptions and associated financial losses. This change was requested by the Small Business Administration.

In 2024, the second supplemental questionnaire will address work-from-home (WFH) from the business perspective. Similar to the 2023 BTOS core questions on artificial intelligence (AI), a core WFH question will be included in all cycles. This core question will be a yes/no format designed to capture potential seasonal variations in WFH at the business level. Establishing this baseline is crucial for understanding seasonal patterns, as preliminary cognitive testing indicated that seasonality could significantly affect certain industries.

The Coronavirus pandemic emphasized the importance of remote work for economic continuity. Post-pandemic, work from home (WFH) remains significant in many workplaces but its extent at businesses and businesses' plans for the future of remote work are not measured in a timely fashion. Currently, WFH data from a worker perspective is available through 2024 via the Current Population Survey (CPS), but business-level data is only available through 2022 from the Business Response Survey (BRS), which is currently on hiatus. Results from the Annual Business Survey through 2022 will be released in fall 2024. Timely measures of WFH from the business perspective will be valuable to policymakers at all levels due to its potential impact on housing markets, commercial real estate, and urban planning.

For sample year 3, we propose changes to the content as detailed in Attachments A and B of the Information Collection Request (ICR) submitted to OMB for review. Attachment A outlines the core questions for cycles 2 through 4 and includes the core plus supplemental content for cycle 2. Based on cognitive testing results, the burden estimate for the core questions has increased from approximately 9 minutes to 10 minutes. The WFH supplement is estimated to add an additional 10 minutes of burden to the core questions.

Frequency: Bi-weekly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. 131 and 182.

This information collection request may be viewed at *https://www.reginfo.gov*. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *https://www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–1022.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–19410 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–17–2024]

Foreign-Trade Zone (FTZ) 21; Authorization of Production Activity; Patheon API Inc.; (Pharmaceutical Products); Florence, South Carolina

On April 26, 2024, Patheon API Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 21J, in Florence, South Carolina.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (87 FR 36753, May 3, 2024). On August 26, 2024, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: August 26, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–19428 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–18–2024]

Foreign-Trade Zone (FTZ) 90; Authorization of Production Activity; PPC Broadband, Inc.; (Fiber Optic Conduit); East Syracuse, New York

On April 26, 2024, PPC Broadband, Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 90C, in East Syracuse, New York.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (89 FR 37174, May 6, 2024). On August 26, 2024, the applicant was notified of the FTZ Board's decision that no further review of the proposed activity is warranted at this time. The FTZ Board authorized the production activity described in the notification, subject to the FTZ Act and the Board's regulations, including section 400.14. Polyester pull cord must be admitted in privileged foreign status (19 CFR 146.41).

Dated: August 26, 2024.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2024–19429 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 240816–0219]

XRIN: 0694–XC107

Request for Public Comments on the Potential Market Impact of the Proposed Fiscal Year 2026 Annual Materials Plan From the National Defense Stockpile Market Impact Committee

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The National Defense Stockpile Market Impact Committee, co-chaired by the Departments of

Commerce and State, is seeking public comments on the potential market impact of proposed changes to the Fiscal Year (FY) 2026 Annual Materials Plan (AMP). Potential changes to the AMP are decided by the National Defense Stockpile Market Impact Committee, which advises the Defense Logistics Agency in its role as the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions, conversions, and disposals involving the National Defense Stockpile.

DATES: To be considered, written comments must be received by September 30, 2024.

ADDRESSES: Comments on this rule may be submitted to the Federal rulemaking portal (*www.regulations.gov*). The *regulations.gov* ID for this rule is: BIS–2024–0030. Please refer to XRIN 0694–XC107 in all comments.

All filers using the portal should use the name of the person or entity submitting the comments as the name of their files, in accordance with the instructions below. Anyone submitting business confidential information should clearly identify the business confidential portion at the time of submission, file a statement justifying nondisclosure and referring to the specific legal authority claimed, and provide a non-confidential version of the submission.

For comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC.'' Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. The corresponding non-confidential version of those comments must be clearly marked ''PUBLIC.'' The file name of the non-confidential version should begin with the character ''P.'' Any submissions with file names that do not begin with either a ''BC'' or a ''P'' will be assumed to be public and will be made publicly available through *https://www.regulations.gov.* Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

FOR FURTHER INFORMATION CONTACT: Tosca Fischer, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, telephone: (202) 482–3528, (Attn: Tosca Fischer), email: *MIC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The federal government operates several different stockpiles that are managed by different federal agencies depending on the stockpile's purpose. For example, the Department of Health and Human Services (HHS) manages the Strategic National Stockpile, which contains medicines and medical equipment. HHS' stockpile may supplement medical countermeasures needed by states, tribal nations, territories, and the largest metropolitan areas during public health emergencies. Another example is the Department of Energy's operation of the Strategic Petroleum Reserve for use in the event the international oil market is severely disrupted.

The Department of Defense (DOD) maintains a stockpile of critical and strategic materials known as the National Defense Stockpile (NDS). During a war or national emergency, this stockpile is meant to provide strategic and critical materials to support national defense and essential civilian requirements. The stockpile currently contains 61 materials (primarily minerals) that are deemed strategic and critical to national security.[1]

Under the authority of the Strategic and Critical Materials Stock Piling Revision Act of 1979, as amended (the Stock Piling Act) (50 U.S.C. 98 *et seq.*), the Department of Defense's Defense Logistics Agency (DLA) is the National Defense Stockpile Manager. The NDS is a strategic stockpile, not an economic stockpile. It is not intended to influence prices in the market or insulate private industry from supply shocks. Rather, its purpose is to ensure the defense and essential civilian industrial base has consistent access to the materiel it needs—and the private industries making products have the raw materials they need—during a war or national emergency.

Congress authorizes the sale of excess materials from the stockpile, and proceeds from the sales are transferred to the National Defense Stockpile Transaction Fund. The NDS does not receive annual appropriations in the defense budget for operational expenses. Instead, the stockpile has a revolving fund in what the U.S. Treasury termed the National Defense Stockpile Transaction Fund.[2] Whenever materials in the stockpile are sold, the proceeds from that sale are added to that fund. The DLA then uses that money to pay for the operational expenses accompanying the maintenance of the stockpile. Information about stockpile disposals—what was sold and at what value it was sold—is publicly available in monthly announcements published by the DLA.[3]

Section 3314 of the National Defense Authorization Act for Fiscal Year 1993 (FY 1993 NDAA) (50 U.S.C. 98h–1) formally established a Market Impact Committee (the Committee) to ''advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile . . .'' The Committee must also balance market impact concerns with the statutory requirement to protect the U.S. Government against avoidable loss. *See* 50 U.S.C. 98e(b)(2).

The Committee is comprised of representatives from the Departments of Commerce, State, Agriculture, Defense, Energy, Interior, the Treasury, and Homeland Security. The FY 1993 NDAA directs the Committee to consult with industry representatives that produce, process, or consume the types of materials stored in the stockpile as the National Defense Stockpile Manager. The DLA must produce an Annual Materials Plan (AMP) proposing the maximum quantity of each listed material that may be acquired, disposed of, upgraded, converted, recovered, or sold by the DLA in a particular fiscal year. With this notice, Commerce, on behalf of the DLA, lists the quantities and types of activity—potential disposals, potential acquisitions, potential conversions (upgrade, rotation, reprocessing, etc.) or potential recovery (from government sources) —associated with each material in its proposed FY 2026 AMP.

The quantities listed in Attachment 1 are not acquisition, disposal, upgrade, conversion, recovery, reprocessing, or sales target quantities, but rather a statement of the proposed maximum quantity of each listed material that may be acquired, disposed of, upgraded, converted, recovered, or sold in a particular fiscal year by the DLA. The quantity of each material that will actually be acquired or offered for sale will depend on the market for the material at the time of the acquisition or offering, as well as on the quantity of

[1] Defense Logistics Agency, ''Strategic Materials: Office,'' U.S. Department of Defense, *https://www.dla.mil/Strategic-Materials/About.*

[2] Strategic and Critical Materials Stock Piling Revision Act of 1979, Public Law 96–41, p. 5.

[3] *https://www.dla.mil/Strategic-Materials/Announcements/.*

each material approved by Congress for acquisition, disposal, conversion, or recovery.

Additional Instructions for Comments

The Committee is interested in any supporting data and documentation on the potential market impact of the quantities associated with the proposed FY 2026 AMP.

While *regulations.gov* allows users to provide comments by filling in a ''Type Comment'' field or by attaching a document using an ''Upload File'' field, BIS prefers comments be provided in an attached document—preferably in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application format other than Microsoft Word or Adobe Acrobat, please indicate the name of the application in the ''Type Comment'' field. Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter within the comments. Please include any exhibits, annexes, or other attachments in the same file, so the submission consists of one instead of multiple files. All filers should name their files using the name of the person or entity submitting the comments.

Submitted materials properly marked as business confidential information with a valid statutory basis for confidentiality, and which is accepted as such by BIS, will not be publicly disclosed. Commenters submitting business confidential information should clearly identify the business confidential portion at the time of submission, include a statement justifying nondisclosure and referring to the specific legal authority claimed with the submission, and provide a non-confidential version of the submission which will be placed in the public file on *https://www.regulations.gov.* For comments containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top of that page. The file name of the non-confidential version should begin with the character ''P''. The non-confidential version must be clearly marked ''PUBLIC'' at the top of the first page. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. Commenters submitting business confidential information are encouraged to scan a hard copy of the non-confidential version to create an image of the file, rather than submitting a digital copy with redactions applied, to avoid inadvertent redaction errors which could enable the public to read business confidential information.

Public comments will be available on regulations.gov, and the BIS Freedom of Information Act (FOIA) website at *https://efoia.bis.doc.gov/.* This office does not maintain a separate public inspection facility. If you have technical difficulties accessing this website, please call BIS's Office of Administration at (202) 482–1900 for assistance.

Attachment 1

PROPOSED FISCAL YEAR 2026 ANNUAL MATERIALS PLAN

Material	Unit	Quantity	Footnote
Potenial Disposals			
Beryllium Metal	ST	8	
Carbon Fibers	Lbs	92,000	(1)
Chromium, Ferro	ST	24,000	
Chromium, Metal	ST	500	
Germanium	kg	5,000	
Manganese, Ferro	ST	20,000	
Manganese, Metallurgical Grade	SDT	320,300	(1)
Aerospace Alloys	Lbs	1,500,000	
Platinum	Tr Oz	8,380	(1)
Iridium	Tr Oz	489	(1)
Quartz Crystals	Lbs	15,712	(1)
Tantalum	Lbs	190	(1)
Tin	MT	640	
Titanium Based Alloys	Lbs	300,000	
Tungsten Ores & Concentrates	Lbs W	1,100,000	
Zinc	ST	2,500	
Potenial Acquisitions			
Aluminum (High Purity)	MT	1,700	
Aluminum Alloys	MT	1,500	
Antimony	MT	700	
Cadmium Zinc Tellurium	CM[2]	2,800	
Electrolytic Manganese Metal	MT	5,000	
Energetics	Lbs	20,000,000	
Ferroniobium	Lbs Nb	300,000	
Grain Oriented Electric Steel	MT	3,200	
Iso-Molded Graphite	MT	1,700	
Lanthanum	MT	1,100	
Magnesium	MT	3,500	
Neodymium-Praseodymium Oxide	MT	300	
NdFeB Magnet Block	MT	450	
Samarium-Cobalt Alloy	MT	60	
Tantalum	Lbs Ta	64,500	
Tire Cord Steel	MT	130	
Titanium	MT	13,608	
Tungsten	Lbs W	587,000	

PROPOSED FISCAL YEAR 2026 ANNUAL MATERIALS PLAN—Continued

Material	Unit	Quantity	Footnote
Zirconium-Hafnium	MT	2,300	
Potential Conversions (Upgrade, rotation, reprocessing, etc.)			
Aerospace Alloys	Lbs	50,000	
Antimony	Lbs	198,000	
Beryllium Metal	ST	8	
Boron Carbide	MT	600	
Cadmium Zinc Tellurium	CM[2]	1,000	
Carbon Fibers	Lbs	5,000	
Europium	MT	35	
Germanium	kg	5,000	
Iridium Catalyst	Lbs	200	
Iso-Molded Graphite	MT	1,700	
Lithium Ion Materials	MT	50	
Rare Earths Elements	MT	12	
Silicon Carbide Fibers	Lbs	875	
SEG Concentrate	MT	13	
Triamino Trinitrobenzene (TATB)	Lbs	48,000	
Tungsten-Rhenium	kg	5,000	
Potential Recovery from Government sources			
Aerospace Alloys	Lbs	1,500,000	
Battery Materials	MT	1,500	
Boron Carbide	MT	300	
Cobalt	MT	500	
E-Waste	MT	100	([2])
Germanium	kg	5,000	
Iridium Catalyst	Lbs	200	
Magnesium Metal	MT	25	
Rare Earths	Lbs	51,000	
Tantalum	MT	10	
Yttrium Aluminum Garnet Rods	kg	250	

Footnote Key:
[1] Actual quantity will be limited to remaining excess inventory.
[2] Strategic and Critical Materials collected from E-Waste (Strategic Materials collected from electronics waste).

Thea D. Rozman Kendler,
Assistant Secretary for Export Administration.

[FR Doc. 2024–19422 Filed 8–28–24; 8:45 am]
BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–040, C–570–041]

Truck and Bus Tires From People's Republic of China: Continuation of Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on truck and bus tires from the People's Republic of China (China) would likely lead to the continuation or recurrence of dumping and net countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

DATES: Applicable August 21, 2024.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg or Suresh Maniam, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1785 or (202) 482–1603, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2019, Commerce published in the **Federal Register** the AD and CVD orders on truck and bus tires from China.[1] On January 2, 2024, the ITC instituted,[2] and Commerce initiated,[3] the first sunset review of the *Orders,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). As a result of its reviews, Commerce determined that revocation of the *Orders* would likely lead to the continuation or recurrence of dumping and net countervailable subsidies, and therefore, notified the ITC of the magnitude of the margins of dumping and subsidy rates likely to prevail should the *Orders* be revoked.[4]

On August 21, 2024, the ITC published its determination, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would

[1] *See Truck and Bus Tires from the People's Republic of China: Amended Final Determination and Countervailing Duty Order,* 84 FR 4434 (February 15, 2019); and *Truck and Bus Tires from the People's Republic of China: Amended Final Determination and Countervailing Duty Order,* 84 FR 4434 (February 15, 2019) (collectively, *Orders*).

[2] *See Truck and Bus Tires from China; Institution of Five-Year Reviews,* 89 FR 93 (January 2, 2024).

[3] *See Initiation of Five-Year (Sunset) Reviews,* 89 FR 66 (January 2, 2024).

[4] *See Truck and Bus Tires from the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order,* 89 FR 31728 (April 25, 2024); and *Truck and Bus Tires from People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order,* 89 FR 31727 (April 25, 2024).

likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[5]

Scope of the *Orders*

The merchandise covered by the *Orders* is truck and bus tires. For a complete description of the *Orders, see* the appendix to this notice.

Continuation of the *Orders*

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to continuation or recurrence of dumping and net countervailable subsidy rates, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, Commerce hereby orders the continuation of the *Orders.* U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Orders* will be August 21, 2024.[6] Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to fifth anniversary of the date of the last determination by the ITC.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

[5] *See Truck and Bus Tires from China,* 89 FR 67671 (August 21, 2024).

[6] *Id.*

Dated: August 22, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

Truck and bus tires are new pneumatic tires, of rubber, with a truck or bus size designation. Truck and bus tires covered by the *Orders* may be tube-type, tubeless, radial, or non-radial.

Subject tires have, at the time of importation, the symbol ''DOT'' on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have one of the following suffixes in their tire size designation, which also appear on the sidewall of the tire:

TR—Identifies tires for service on trucks or buses to differentiate them from similarly sized passenger car and light truck tires; and

HC—Identifies a 17.5 inch rim diameter code for use on low platform trailers.

All tires with a ''TR'' or ''HC'' suffix in their size designations are covered by the *Orders* regardless of their intended use.

In addition, all tires that lack one of the above suffix markings are included in the scope, regardless of their intended use, as long as the tire is of a size that is among the numerical size designations listed in the ''Truck-Bus'' section of the *Tire and Rim Association Year Book,* as updated annually, unless the tire falls within one of the specific exclusions set out below.

Truck and bus tires, whether or not mounted on wheels or rims, are included in the scope. However, if a subject tire is imported mounted on a wheel or rim, only the tire is covered by the scope. Subject merchandise includes truck and bus tires produced in the subject country whether mounted on wheels or rims in the subject country or in a third country. Truck and bus tires are covered whether or not they are accompanied by other parts, *e.g.,* a wheel, rim, axle parts, bolts, nuts, *etc.* Truck and bus tires that enter attached to a vehicle are not covered by the scope.

Specifically excluded from the scope of the *Orders* are the following types of tires: (1) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires; (2) non-pneumatic tires, such as solid rubber tires; and (3) tires that exhibit each of the following physical characteristics: (a) the designation ''MH'' is molded into the tire's sidewall as part of the size designation; (b) the tire incorporates a warning, prominently molded on the sidewall, that the tire is for ''Mobile Home Use Only''; and (c) the tire is of bias construction as evidenced by the fact that the construction code included in the size designation molded into the tire's sidewall is not the letter ''R.''

The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.20.1015 and 4011.20.5020. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.69.0020, 4011.69.0090, 4011.70.00, 4011.90.80, 4011.99.4520, 4011.99.4590, 4011.99.8520, 4011.99.8590, 8708.70.4530, 8708.70.6030, 8708.70.6060, and 8716.90.5059.[7]

While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Also, excluded from the scope of the *Orders* are size 8–14.5 truck and bus tires imported by America Koryo, Inc. from China. Included within the scope are size 11–22.5 truck and bus tires imported by America Koryo, Inc. from China.[8]

[FR Doc. 2024–19390 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Evaluation of SE Catch Shares Programs

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before October 28, 2024.

[7] On August 26, 2016, Commerce included HTSUS subheadings 4011.69.0020, 4011.69.0090, and 8716.90.5059 to the case reference files, pursuant to requests by U.S. Customs and Border Protection (CBP) and the petitioner. *See* Memorandum, ''Requests from Customs and Border Protection and the Petitioner to Update the ACE Case Reference File,'' dated August 26, 2016. On January 19, 2017, Commerce included HTSUS subheadings 4011.70.00 and 4011.90.80 to the case reference files, pursuant to requests by CBP. *See* Memorandum, ''Requests from Customs and Border Protection to Update the ACE Case Reference File,'' dated January 19, 2017.

[8] *See Notice of Scope Rulings,* 85 FR 35261 (June 9, 2020).

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–xxxx in the subject line of your comments. All comments received are part of the public record and will generally be posted on *https://www.regulations.gov* without change. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Dr. Juan J. Agar, Southeast Fisheries Science Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149, 305–361–4218, *Juan.Agar@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for a new collection of information. The National Marine Fisheries Service (NMFS) proposes to conduct a survey of catch share participants in the southeast region. This data collection applies to the Gulf of Mexico and South Atlantic regions. The proposed socio-economic study will examine the performance of these programs. The survey will collect information on demographics, factors influencing market transparency and efficiency, changes in fishing and marketing practices following the adoption of catch share programs, and miscellaneous attitudinal questions. The data gathered will be used for required, periodic evaluations of these programs and the development of amendments to fishery management plans, which require descriptions of the human and economic environment and socio-economic analyses of regulatory proposals. Additionally, the information collected will be used to strengthen fishery management decision-making and satisfy various legal mandates under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.;* MSA), Executive Order 12866, Regulatory Flexibility Act, Endangered Species Act (ESA), and National Environmental Policy Act (NEPA), and other pertinent statues.

II. Method of Collection

In-person, online, and phone interviews will be used to collect the above-described information.

III. Data

OMB Control Number: 0648–XXXX.
Form Number(s): None.

Type of Review: Regular submission [new information collection].

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,100.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 550 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq*

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this information collection request. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2024–19451 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Request for Comment; Strategic Priorities for Ocean Exploration and Characterization in the Pacific Islands Within the United States Exclusive Economic Zone and Outer Continental Shelf (Pacific Islands Priorities Report)

AGENCY: Office of Ocean Exploration and Research, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of public comment.

SUMMARY: On behalf of the Ocean Science and Technology Subcommittee of the Ocean Policy Committee co-chaired by the Office of Science and Technology Policy (OSTP) and the Council on Environmental Quality (CEQ), the National Ocean Mapping, Exploration, and Characterization (NOMEC) Council and the Interagency Working Group on Ocean Exploration and Characterization (IWG–OEC) request public input from all interested parties on the development of the ''Strategic Priorities for Ocean Exploration and Characterization in the Pacific Islands within the United States Exclusive Economic Zone and Outer Continental Shelf'' (Pacific Islands Priorities Report). The public input provided in response to this notice will inform the IWG–OEC and federal subject matter experts in identifying strategic priorities and data needs for ocean exploration and characterization in the U.S. Pacific Islands (State of Hawai'i and the U.S. Pacific Territories and Possessions) as they develop the Pacific Islands Priorities Report and ensure that this report is informed by and responsive to all sectors through sustained engagement and effective partnerships.

DATES: Comments must be received by November 4, 2024.

ADDRESSES: Responses should be submitted via email to *nomec.staff@noaa.gov.*

Instructions: Response to this notice is voluntary. Include ''Public Comment on Pacific Islands Priorities Report'' in the subject line of the message. All submissions must be in English. Email attachments will only be accepted in plain text, Microsoft Word, or Adobe PDF formats. Each individual or institution is requested to submit only one response.

Responses to this notice may be posted without change on a Federal website. All personal identifying information (*e.g.,* name, address, etc.),

confidential business information, or otherwise sensitive information submitted voluntarily by the sender will become publicly accessible. NOAA, therefore, requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to this notice. Anonymous comments will be accepted. Please note that the U.S. Government will not pay for response preparation or the use of any information contained in the response.

Documents referenced:

A copy of the previous *Strategic Priorities for Ocean Exploration and Characterization of the United States Exclusive Economic Zone* published in October 2022 may be downloaded or viewed at: *https://www.whitehouse.gov/wp-content/uploads/2022/10/NOMEC_OEC_Priorities_Report.pdf.*

A copy of the *Report on the Workshop to Identify National Ocean Exploration Priorities in the Pacific* may be downloaded or viewed at: *https://col.ucar.edu/sites/default/files/2022-09/OceanExploration_PacificPriorities_WorkshopReport_NOV2020.pdf.*

A copy of the NOMEC National Strategy may be downloaded or viewed at: *https://www.noaa.gov/sites/default/files/2022-07/NOMECStrategy.pdf.*

A copy of the current NOMEC Implementation Plan may be downloaded or viewed at: *https://www.noaa.gov/sites/default/files/2021-11/210107-FINALNOMECImplementationPlan-Clean.pdf.*

FOR FURTHER INFORMATION CONTACT: IWG–OEC Co-chairs: Rachel Medley, NOAA, *rachel.medley@noaa.gov,* 301–789–3075; Dr. Amanda Demopoulos, U.S. Geological Survey, *ademopoulos@usgs.gov,* 352–264–3490; Mark Mueller, Bureau of Ocean Energy Management, *mark.mueller@boem.gov,* 703–787–1089.

SUPPLEMENTARY INFORMATION: The NOMEC Council and IWG–OEC issue this notice on behalf of the Ocean Science and Technology Subcommittee of the Ocean Policy Committee co-chaired by the OSTP and the CEQ and in coordination with the Administrator of NOAA. Public input in response to this notice will inform development of the Pacific Islands Priorities Report, which aims to expand on the prior national-scale U.S. interagency *Strategic Priorities for Ocean Exploration and Characterization of the United States Exclusive Economic Zone* (Priorities Report) released in October 2022 (*https://www.whitehouse.gov/wp-content/uploads/2022/10/NOMEC_OEC_Priorities_Report.pdf*) along with a non-federal Consortium for Ocean Leadership *Report on the Workshop to Identify National Ocean Exploration Priorities in the Pacific* released in 2020 (*https://col.ucar.edu/sites/default/files/2022-09/OceanExploration_PacificPriorities_WorkshopReport_NOV2020.pdf*). Information gathered in the interagency Priorities Report was generated from public response to a **Federal Register** notice (87 FR 16169; March 22, 2022) and from federal subject matter experts working across five thematic groups. The geographic and thematic priorities identified in the 2022 Priorities Report have directly guided interagency projects collecting information in identified priority areas including expeditions in the Aleutian Arc, Blake Plateau, and Hawai'i, and this new information-gathering effort in the Pacific Islands will do the same.

The IWG–OEC sees value in re-initiating the ad hoc thematic federal working groups and seeking public comments to further refine thematic priorities and data needs specific to the Pacific Islands (State of Hawai'i and the U.S. Pacific Territories and Possessions) within the United States Exclusive Economic Zone (U.S. EEZ) and Outer Continental Shelf (OCS) since there have been changes to relevant federal statutes and an expansion of federal interests in Western and Central Pacific Islands and Nations following the compilation and release of the prior Priorities Report. Additionally, a new federally led regional campaign, ''Beyond the Blue: Illuminating the Pacific,'' was recently launched. This new prioritization exercise builds upon the prior Priorities Report and supports the objectives of the Beyond the Blue campaign, the NOMEC Strategy and other national strategies.

This notice solicits comments from Native Hawaiians, Pacific Islanders, and stakeholders, including academia, private industry, and other relevant institutions, to inform the development and finalization of the Pacific Islands Priorities Report. Specifically, the IWG–OEC is looking for information addressing the following aspects relevant to ocean exploration and characterization within the Pacific Islands (State of Hawai'i and the U.S. Pacific Territories and Possessions). The IWG–OEC will consider relevant priorities and data needs outside U.S. waters if the connection and relevance to U.S. federal interests is explicitly made.

- Provide a description of high-priority interests, disciplines, topics, and/or themes in the region.
- What types of additional data need to be acquired related to these priorities?
- What types of data standards, protocols, and best
- practices are best suited for data collection related to these priorities?
- What types of products or analyses need to be produced related to these priorities?
- Can you provide information about data sovereignty best practices and principles that can enhance the incorporation of cultural and indigenous knowledge?
- What challenges exist when gathering or accessing data? Can you propose specific solutions to these challenges?
- What technologies or methods (*e.g.,* instrumentation or sensors) exist to address these priorities?
- What specific technology gaps or limitations need to be developed or improved to better advance data collection, planning, and processing techniques?

David Holst,

Chief Financial and Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2024–19417 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE213]

Endangered and Threatened Species; Notice of Initiation of a 5-Year Review for the Indus River Dolphin

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of initiation; request for information.

SUMMARY: The NMFS announces the initiation of a 5-year review for the Indus River dolphin (*Platanista gangetica minor*). NMFS is required by the Endangered Species Act (ESA) to conduct 5-year reviews to ensure that the listing classifications of species are accurate. The 5-year review must be based on the best scientific and commercial data available at the time of the review. We request submission of any such information on the Indus River dolphin, particularly information on the status, threats, and recovery of the species that has become available since the previous review in 2016.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than October 28, 2024.

ADDRESSES: You may submit information on this document, identified by NOAA–NMFS–2024–0097, by the following method:

• *Electronic Submission:* Submit electronic information via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2024–0097 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Information sent by any other method, to any other address or individual, or received after the end of the specified period, may not be considered by NMFS. All information received is a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous submissions (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Kristen Koyama (301) 427–8456 or *Kristen.Koyama@noaa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces our review of the Indus River dolphin (*Platanista gangetica minor*), listed as endangered under the ESA. It should be noted that recent research, since the previous status review, has suggested that the Indus River dolphin should be elevated to species level (*Platanista minor*), which will be discussed in the current review. Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every 5 years. The species was previously reviewed in 2016. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species currently under active review. On the basis of such reviews under section 4(c)(2)(B), we determine whether any species should be removed from the list (*i.e.,* delisted) or reclassified from endangered to threatened or from threatened to endangered (16 U.S.C. 1533(c)(2)(B)). As described by the regulations in 50 CFR 424.11(e), the Secretary shall delist a species if the Secretary determines based on consideration of the factors and standards set forth in paragraph (c) of that section, that the best scientific and commercial data available substantiate that: (1) the species is extinct; (2) the species has recovered to the point at which it no longer meets the definition of an endangered species or a threatened species; (3) new information that has become available since the original listing decisions on how the listed entity does not meet the definition of an endangered species or a threatened species; or (4) new information that has become available since the original listing decision shows the listed entity does not meet the definition of a species. Any change in Federal classification would require a separate rulemaking process.

Background information on the species is available on the NMFS website at: *https://www.fisheries.noaa.gov/species/indus-river-dolphin.*

Public Solicitation of New Information

To ensure that the review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of the Indus River dolphin (*Platanista gangetica minor*). Categories of requested information include: (1) species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and important features for conservation; (3) status and trends of threats to the species and its habitats; (4) conservation measures that have been implemented that benefit the species, including monitoring data demonstrating effectiveness of such measures; and (5) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes and improved analytical methods for evaluating extinction risk.

If you wish to provide information for the review, you may submit your information and materials electronically (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: August 23, 2024.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–19416 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE242]

Marine Mammals; File No. 28184

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Dan Engelhaupt, Ph.D., HDR, 4173 Ewell Road, Virginia Beach, VA 23455, has applied in due form for a permit to conduct research on marine mammals.

DATES: Written comments must be received on or before September 30, 2024.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov*, and then selecting File No. 28184 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 28184 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D., or Courtney Smith, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a 5-year permit to conduct research in the North Pacific and North Atlantic Oceans including the Gulf of Mexico. The objectives are to study presence, movement patterns, behaviors, and population structure for marine mammals occupying waters shared with the U.S. Navy activities and

other anthropogenic activities. Up to 61 species of marine mammals may be taken including the following ESA-listed species: blue (*Balaenoptera musculus*), bowhead (*Balaena mysticetus*), false killer (*Pseudorca crassidens*; Main Hawaiian Islands Insular distinct population segment [DPS]), fin (*Balaenoptera physalus*), gray (*Eschrichtius robustus*; Western North Pacific DPS), humpback (*Megaptera novaeangliae*; Central America, Western North Pacific, and Mexico DPSs), killer (*Orcinus orca*; Southern Resident DPS), North Atlantic right (*Eubalaena glacialis*), North Pacific right (*Eubalaena japonica*), Rice's (*Balaenoptera ricei*), sei (*Balaenoptera borealis*), and sperm (*Physeter macrocephalus*) whales, and Hawaiian monk seals (*Neomonachus schauinslandi*). Research may occur year-round during vessel or aircraft surveys, including unmanned aircraft systems, for counts, photography, video recording (above and underwater), photogrammetry, observations, passive acoustics, biological sampling (sloughed skin, exhaled air, feces, and skin and blubber biopsy), and tagging (suction-cup, dart, and deep-implant). Parts collected may be exported and imported for analysis. See the application for complete numbers of animals requested by species, age-class, and procedure.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 23, 2024.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2024–19440 Filed 8–28–24; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination Under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (''CAFTA–DR'')

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA–DR.

SUMMARY: The Committee for the Implementation of Textile Agreements (''CITA'') has determined that certain 100% man-made fiber high pile fleece fabric (the ''subject product''), as specified below, is not available in commercial quantities in a timely manner in the CAFTA–DR countries. The subject product will be added to the list in Annex 3.25 of the CAFTA–DR in unrestricted quantities.

DATES: *Applicable Date:* August 27, 2024.

ADDRESSES: *https://otexaprod.trade.gov/otexacapublicsite/requests/cafta* under ''Approved Requests,'' File Number: CA2024003.

FOR FURTHER INFORMATION CONTACT: Laurie Mease, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–2043 or *Laurie.Mease@trade.gov.*

SUPPLEMENTARY INFORMATION:

Authority: The CAFTA–DR; Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (''CAFTA–DR Implementation Act''), Public Law 109–53; the Statement of Administrative Action accompanying the CAFTA–DR Implementation Act; and Presidential Proclamation 7987 (February 28, 2006).

Background: The CAFTA–DR provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA–DR have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA–DR provides that this list may be modified pursuant to Article 3.25.4 and 3.25.5, when the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. *See* Annex 3.25 of the CAFTA–DR; *see also* section 203(o)(4)(C) of the CAFTA–DR Implementation Act.

The CAFTA–DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamation 7987, the President delegated to CITA the authority under section 203(o)(4) of CAFTA–DR Implementation Act for modifying the Annex 3.25 list. Pursuant to this authority, on September 15, 2008, CITA published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to the CAFTA–DR (*Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement,* 73 FR 53200) (''CITA's procedures'').

On June 25, 2024, CITA received a commercial availability request (''Request'') from VF Corp. (''VF'') for certain 100% man-made fiber high pile fleece fabric, as specified below. On June 27, 2024, in accordance with CITA's procedures, CITA notified interested parties of the Request, which was posted on the dedicated website for CAFTA–DR commercial availability proceedings. In its notification, CITA advised that any Response with an Offer to Supply (''Response'') must be submitted by July 10, 2024, and any Rebuttal to a Response (''Rebuttal'') must be submitted by July 16, 2024, in accordance with sections 6 and 7 of CITA's procedures.

Based on a request from an interested entity, and in accordance with Section 6(a) of CITA's procedures, CITA extended the Response deadline by two business days, through July 12, 2024. Correspondingly, the Rebuttal deadline was extended by two business days, through July 18, 2024.

On July 10, 2024, Draper Knitting Company, Inc. (''Draper'') submitted a Response to the pending Request. On July 18, 2024, VF submitted a Rebuttal to Draper's Response.

In accordance with Section 203(o)(4) of the CAFTA–DR Implementation Act, Article 3.25 of the CAFTA–DR, and section 8(c)(4) of CITA's procedures, because there was insufficient information on the record to make a determination within 30 business days regarding the ability of a CAFTA–DR supplier to supply the subject product based on the submitted information, CITA extended the period to make a determination by 14 U.S. business days. Further, in accordance with section 8(c)(4)(i) of its procedures, CITA called for a public meeting on August 5, 2024

with representatives of VF and Draper to provide the companies with an opportunity to submit additional evidence to substantiate their claims regarding Draper's capability to supply the subject product, or one substitutable, in commercial quantities in a timely manner.

Section 203(o)(4)(C)(ii) of the CAFTA–DR Implementation Act provides that after receiving a request, a determination will be made as to whether the subject product, or one substitutable, is available in commercial quantities in a timely manner in the CAFTA–DR countries. In the instant case, the information on the record indicates that VF made significant efforts to source the subject product, a warp knit fleece fabric, in the CAFTA–DR region. Draper offered to supply a circular weft knit sliver pile fabric, which it argued is substitutable for the subject product. CITA finds that the information on the record does not support Draper's claim that the fabric it offered to supply is, in fact, substitutable for the subject product. Therefore, in accordance with Section 203(o) of the CAFTA–DR Implementation Act and CITA's procedures, as no interested entity has substantiated its ability to supply the subject product or one substitutable in commercial quantities in a timely manner, CITA has determined to add the subject product to the list in Annex 3.25 of the CAFTA–DR.

The subject product has been added to the list in Annex 3.25 of the CAFTA–DR in unrestricted quantities. A revised list has been posted on the dedicated website for CAFTA–DR Commercial Availability proceedings, at *https://otexaprod.trade.gov/otexacapublicsite/shortsupply/cafta.*

Specifications: Certain 100% Man-Made Fiber High Pile Fleece Fabric

HTS: 6001.22.
Fabric Type: Fleece.
Fiber Content: 100% man-made (polyester) fiber.
Construction: Warp knit (2 threads).
Gauge: 20gg–31gg.
Yarn Size: Various.
Warp Count: 40 to 53 per cm.
Fabric Weight: 284 to 385 grams per square meter.
Finishing Processes: Brush face and back.
Performance Requirements:
AATCC 135 Dimensional stability 6*6 maximum
ASTMD 3786 Bursting 50 minimum
AATCC 8 Colorfastness to crocking 2.0 to 4.0
DIN 53160 Colorfastness to saliva 4.5 minimum
Other: Pile height minimum 5mm.
Remarks: The specifications for the fabric apply to the fabric itself prior to cutting and sewing of the finished garment. Such processing may alter the measurements.

Paul Morris,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2024–19063 Filed 8–28–24; 8:45 am]
BILLING CODE 3510–DR–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2024–FSA–0084]

Privacy Act of 1974; Matching Program

AGENCY: Federal Student Aid, U.S. Department of Education.

ACTION: Notice of a new matching program.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988 and the Computer Matching and Privacy Protection Amendments of 1990 (Privacy Act) and Office of Management and Budget (OMB) guidance, notice is hereby given of the re-establishment of a matching program between the U.S. Department of Education (Department), as the recipient agency, and the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (DHS–USCIS), as the source agency, to verify the immigration status of noncitizen applicants for, or recipients of, financial assistance under title IV of the Higher Education Act of 1965, as amended (HEA).

DATES: Submit your comments on the proposed re-establishment of the matching program on or before September 30, 2024.

The matching program will go into effect on the later of the following three dates: (1) October 21, 2024; (2) at the expiration of the 60-day period following the Department's transmittal of a report concerning the matching program to OMB and to the appropriate Congressional Committees, along with a copy of the Computer Matching Agreement, unless OMB waives any of this 60-day review period for compelling reasons, in which case, 60 days minus the number of days waived by OMB from the date of the Department's transmittal of the report of the matching program; or (3) at the expiration of the 30-day public comment period following the Department's publication of notice of this matching program in the **Federal Register**, assuming that the Department receives no public comments or receives public comments but makes no changes to the Matching Notice as a result of the public comments, or 30 days from the date on which the Department publishes a Revised Matching Notice in the **Federal Register**, assuming that the Department receives public comments and revises the Matching Notice as a result of public comments. If the latest date occurs on a non-business day, then that date will be counted for purposes of this paragraph as occurring on the next business day.

The matching program will continue for 18 months after the effective date of the matching program and may be extended for an additional 12 months thereafter, if the respective Data Integrity Boards (DIBs) of the Department and DHS–USCIS determine that the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

ADDRESSES: Comments must be submitted via the Federal eRulemaking Portal at *regulations.gov.* However, if you require an accommodation or cannot otherwise submit your comments via *regulations.gov*, please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. The Department will not accept comments submitted by fax or by email, or comments submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''FAQ''.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Patrick Fox, Senior Advisor, U.S. Department of Education, Federal Student Aid, 61 Forsyth Street SW, Atlanta, GA 30303. Telephone: (202) 718–6885. Email: *Patrick.Fox@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act; OMB

''Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988,'' published in the **Federal Register** on June 19, 1989 (54 FR 25818); and OMB Circular No. A–108, notice is hereby given of the re-establishment of the matching program between the Department and DHS–USCIS, to verify the immigration status of noncitizen applicants for, or recipients of, financial assistance under title IV, HEA, in order to determine such individuals' eligibility for title IV, HEA Federal student aid.

Participating Agencies

The Department and DHS–USCIS.

Authority for Conducting the Matching Program

The Department seeks access to the information accessed by SAVE through the DHS–USCIS Verification Information System (VIS) for the purpose of verifying the immigration status of applicants for assistance, as authorized by section 484(g) of the HEA, 20 U.S.C. 1091(g), consistent with the requirements of section 484(a)(5) of the HEA, 20 U.S.C. 1091(a)(5). The Department is authorized to participate in the matching program, which is the subject of this CMA, under the authority of section 484(g)(3) of the HEA, 20 U.S.C. 1091(g)(3), and 20 U.S.C. 3475. DHS–USCIS is authorized to participate in this matching program under section 103 of the Immigration and Nationality Act, Public Law 82–414, as amended, 8 U.S.C. 1103, Section 121(c)(1), Part C, of the Immigration Reform and the Control Act of 1986, Public Law 99–603, 42 U.S.C. 1320b–7 note, and section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, as amended, 8 U.S.C. 1373(c).

Purpose(s)

The purpose of this matching program is to permit the Department to confirm the immigration status of noncitizen applicants for, or recipients of, financial assistance under title IV of the HEA, as authorized by section 484(g) of the HEA (20 U.S.C. 1091(g)). The title IV, HEA programs that are covered by the matching program include: the Federal Pell Grant Program, the Teacher Education Assistance for College and Higher Education (TEACH) Grant Program, the Iraq and Afghanistan Service Grant Program, the Federal Perkins Loan Program, the Federal Work-Study Program, the Federal Supplemental Educational Opportunity Grant Program, and the William D. Ford Federal Direct Loan Program.

Categories of Individuals

The individuals included in this matching program are applicants for, or recipients of, title IV, HEA program assistance who provide an Alien Registration Number (ARN) (also referred to as A-number or USCIS number) when completing the Free Application for Federal Student Aid (FAFSA) and have indicated that they are an ''eligible noncitizen'' to determine their eligibility for title IV, HEA program assistance.

Categories of Records

The Department will disclose to DHS–USCIS the ARN, first and last name, and date of birth of each applicant for, or recipient of, financial assistance under title IV of the HEA who indicates that they are an ''eligible noncitizen'' and have provided their ARN in their application for financial assistance under title IV of the HEA. DHS–USCIS will disclose to the Department the eligible noncitizen applicant's first and last name, date of birth, A-number (or ARN or USCIS number), Verification Case Number, and Eligibility Statement Codes, if any.

System(s) of Records

The Department will disclose records to DHS–USCIS from its systems of records identified as ''Aid Awareness and Application Processing'' (AAAP) (18–11–21), which was last published in the **Federal Register** on May 30, 2024 (89 FR 46870). In addition, the Department will maintain the information it receives from DHS–USCIS in the ''Common Origination and Disbursement (COD) System'' (18–11–02), which was last published in the **Federal Register** on June 28, 2023 (88 FR 41942).

DHS–USCIS will disclose records back to the Department from its systems of records identified as the ''Department of Homeland Security (DHS)/U.S. Citizenship and Immigration Services (USCIS)–0004 Systematic Alien Verification for Entitlements Program System of Records'', which was last published in the **Federal Register** on May 27, 2020 (85 FR 31798).

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Denise Carter,

Acting Chief Operating Officer, Federal Student Aid.

[FR Doc. 2024–19432 Filed 8–28–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Fusion Energy Sciences Advisory Committee

AGENCY: Office of Science, Department of Energy (DOE).

ACTION: Notice of an open virtual meeting.

SUMMARY: This notice announces an open virtual meeting of the Fusion Energy Sciences Advisory Committee (FESAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, September 30, 2024; 10 a.m.–5 p.m. EDT.

ADDRESSES: This meeting will be held virtually via Zoom. Instructions for Zoom, as well as any updates to meeting times or meeting agenda, can be found on the FESAC meeting website at: *https://science.osti.gov/fes/fesac/Meetings.*

FOR FURTHER INFORMATION CONTACT: Dr. Samuel J. Barish, Office of Fusion Energy Sciences (FES); U.S. Department of Energy; Office of Science; 1000 Independence Avenue SW, Washington, DC 20585; Telephone: (301) 903–2917, email address: *sam.barish@science.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The purpose of the Committee is to make recommendations on a continuing basis to the Director, Office of Science of the Department of Energy, on the many

complex scientific and technical issues that arise in the development and implementation of the fusion energy sciences program.

Tentative Agenda:

- Office of Science Overview and Update
- Update from the Office of Fusion Energy Sciences
- Update on the Progress and Plans of the FESAC Decadal Plan Subcommittee
- Public Comment
- United States Fusion Science and Technology Roadmap
- Adjourn

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make an oral statement regarding any of the items on the agenda, you should contact Dr. Barish at *sam.barish@science.doe.gov.* Reasonable provision will be made to include the scheduled oral statements during the Public Comment time on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule. If you have any questions or need a reasonable accommodation under the Americans with Disabilities Act for this event, please send your request to Sandy Newton at *sandy.newton@science.doe.gov,* two weeks but no later than 48 hours, prior to the event. Closed captions will be enabled.

Minutes: The minutes of the meeting will be available for review on the Fusion Energy Sciences Advisory Committee website: *https://science.osti.gov/fes/fesac/Meetings.*

Signing Authority: This document of the Department of Energy was signed on August 23, 2024, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 23, 2024.

Jennifer Hartzell,

Alternate Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–19389 Filed 8–28–24; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board Chairs

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB). The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 25, 2024; 8:30 a.m.–5 p.m. EDT; Thursday, September 26, 2024; 8:30 a.m.–11:45 a.m. EDT.

ADDRESSES: Double Tree Hotel, 215 S Illinois Avenue, Oak Ridge, TN 37830. This hybrid meeting will be in-person at the Double Tree Hotel and virtually available via Zoom. Virtual attendees can Register for the meeting on September 25, 2024, by visiting *https://www.energy.gov/em/events/em-site-specific-advisory-board-chairs-meeting-day-1* and on September 26, 2024, by visiting *https://www.energy.gov/em/events/em-site-specific-advisory-board-chairs-meeting-day-2*.

FOR FURTHER INFORMATION CONTACT: Kelly Snyder, EM SSAB Designated Federal Officer. Telephone: (702) 918–6715; Email: *kelly.snyder@em.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and recommendations concerning the following EM site-specific issues: clean-up activities and environmental restoration; waste and nuclear materials management and disposition; excess facilities; future land use and long-term stewardship. The Board may also be asked to provide advice and recommendations on any EM program components.

Tentative Agenda Topics

Wednesday, September 25, 2024

- Public Comment
- Presentations by DOE
- Board Business/Open Discussion

Thursday, September 26, 2024

- Public Comment
- Presentations by DOE
- Board Business/Open Discussion

Public Participation: DOE welcomes the attendance of the public at their advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kelly Snyder at least seven days in advance of the meeting at the phone number or email listed above. Written public comment statements may be filed either before or after the meeting with the Designated Federal Officer, Kelly Snyder, at the phone number or email listed above. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes will be available at the following website: *https://energy.gov/em/listings/chairs-meetings*.

Signing Authority: This document of the Department of Energy was signed on August 23, 2024, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC on August 23, 2024.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2024–19401 Filed 8–28–24; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2024–0350; FRL 12138–01–OAR]

Use of Advanced and Emerging Technologies for Quantification of Annual Facility Methane Emissions Under the Greenhouse Gas Reporting Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for information (RFI).

SUMMARY: The EPA invites public comment on the potential for expanded use of advanced and emerging technologies for methane emissions quantification in EPA's Greenhouse Gas Reporting Program (GHGRP). These technologies are an important part of EPA's GHGRP, including under the recently finalized amendments for Petroleum and Natural Gas Systems. EPA intends to use the feedback received in response to this RFI to consider whether it is appropriate to undertake further rulemaking addressing the use of advanced measurement technologies in the GHGRP for petroleum and natural gas systems and municipal solid waste (MSW) landfills, beyond the current role provided in existing rules for these technologies.

DATES: Comments must be received on or before October 28, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2024–0350, to the Federal Portal: *https://www.regulations.gov.* Follow online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. Do not submit electronically any information you consider to be Confidential Business Information (CBI). EPA may publish any comment received to its public docket, submitted, or sent via email. For additional submission methods, the full EPA public comment policy, information about CBI, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Vasco Roma, Environmental Protection Agency, Office of Air and Radiation, Office of Atmospheric Protection, Climate Change Division; telephone number: 202–564–1662; email address: *Roma.Vasco@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Technologies with the ability to detect and measure atmospheric methane have been advancing significantly over the last few decades. These technologies are an important part of EPA programs, including the recently finalized 40 CFR part 98 Subpart W (Subpart W) amendments, which allow for the use of advanced measurement technologies to help quantify methane emissions from Petroleum and Natural Gas Systems sources, such as emissions from other large release events and flares under the GHGRP.[1] Similarly, the oil and natural gas New Source Performance Standards and Emission Guidelines at 40 CFR part 60 Subparts OOOOb and OOOOc (''NSPS OOOOb/EG OOOOc'') published in March 2024 allow for the use of advanced measurement technologies to identify the presence of Super Emitter Events and for detecting fugitive emissions.[2] In addition, the rules provide a pathway for demonstrating that new technologies meet the performance requirements established in the NSPS/EG rules. As a result, regulated entities are able to leverage advanced measurement technologies that are already available to detect methane emissions rapidly with accuracy, as well as to incorporate new technologies that are emerging in this rapidly evolving field.

Following requests for comment in the notice of the 2023 proposed rulemaking for Subpart W,[3] the EPA received numerous comments requesting that the use of advanced measurement technologies be allowed to quantify emissions from other sources beyond other large release events in Subpart W. In response to these comments, EPA reviewed remote sensing and in situ advanced measurement approaches (including both intermittent and continuous monitoring approaches) that utilize information from satellite, aerial, drone, vehicle, and stationary platforms to detect and/or quantify methane emissions from oil and gas operations for their potential use in Subpart W reporting. As a result of this review and in response to comments on the proposed Subpart W rule, in May 2024, EPA finalized additional options within Subpart W to use advanced measurement technologies to measure data that are inputs to emission calculations for flares and well completions and workovers, in addition to the proposed use of advanced measurement technologies to quantify emissions from other large release events and/or estimate the duration of such events.

As EPA acknowledged in the final Subpart W rule, advanced measurement technologies are developing rapidly and are particularly well-suited for detecting and quantifying large and discrete emissions events, such as other large release events. Based on EPA's assessment of the strengths and limitations of advanced measurement technologies at the time of finalizing the Subpart W rule, however, EPA limited the use of these technologies in annual GHG reporting to certain specific roles identified in the final rule.[4]

EPA has also sought comment on how methane monitoring technologies might enhance emission estimates for other industrial sectors covered under the GHGRP, specifically for MSW landfills under 40 CFR part 98 Subpart HH (Subpart HH). In a May 2023 notice of proposed rulemaking, EPA requested examples of methane data collected from available monitoring methodologies and how such data might be incorporated into quantifying annual emissions.[5] Although the EPA did not take final action to incorporate advanced measurement technologies in the April 2024 final rule for the reasons described therein,[6] including information in comments received noting limitations in existing technologies, EPA has continued to review ways to incorporate the use of advanced measurement technologies into the emissions reporting for MSW landfills for GHGRP reporting purposes under Subpart HH.

Based on these reviews, EPA recognizes that advanced measurement technologies, and their use for annual quantification of methane emissions, are evolving rapidly. EPA is committed to transparent and continual improvements to its programs to ensure reporting is accurate and complete. There are four key considerations associated with expanding the use of advanced measurement technologies to quantify annual methane emissions [7] under the GHGRP in a robust, transparent, accurate, standardized, and verifiable way:

[1] Final Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems, 89 FR 42062 (May 2024).

[2] Final Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review, 89 FR 16820 (March 2024).

[3] Proposed Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems, 88 FR 50282 (August 2023).

[4] Final Greenhouse Gas Reporting Rule: Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems, 89 FR 42062 (May 2024).

[5] Proposed Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule, 88 FR 32852 (May 2023).

[6] Final Revisions and Confidentiality Determinations for Data Elements Under the Greenhouse Gas Reporting Rule, 89 FR 31802 (April 2024).

[7] Current GHGRP reporting requires quantification of methane emissions at the equipment-, process-, or facility-level. For example, under Subpart W emissions are quantified and reported for specific equipment types, such as pneumatic controllers. For Subpart HH, emissions are quantified and reported at the facility-scale, which includes the total surface area of the landfill, or for specific processes such as landfill gas collection and control systems.

(1) How to translate the measurement data provided by different types of advanced measurement technologies (*e.g.,* methane plume images, satellite retrievals of column methane mixing ratios, ambient methane concentrations) into total tons of methane emissions.

(2) How to extrapolate methane emissions from discrete and intermittent observations into total methane emissions throughout the year (with a specific level of accuracy) and attribute these emissions to a specific equipment type, process, or facility.

(3) How to identify, attribute, and quantify methane emission events that are below a technology's detection limit, in order to estimate total equipment-, process-, or facility-level emissions throughout the year.

(4) How to set detection, quantification, attribution, verification, and uncertainty criteria and/or protocols for different types of advanced measurement technologies to ensure implementation into the GHGRP in a manner that is applicable to different infrastructures and environmental conditions across the U.S. (*e.g.,* topographies, climates, facility types and layouts).

As technologies continue to rapidly advance to meet these needs, EPA is issuing this RFI to the public to obtain information about currently available advanced and emerging methane measurement technologies, and how these technologies could be used to quantify annual methane emissions from the oil and gas and MSW landfill industry segments at the equipment-, process-, or facility-level for GHGRP reporting purposes. The following questions are aimed to address the key considerations outlined above and have been organized into the following categories: quantification, attribution, and implementation.

EPA believes that standards or protocols could help ensure the use of advanced measurement technologies to quantify annual methane emissions is implemented in a transparent and standardized manner. Furthermore, EPA anticipates that annual quantification approaches may be specific to an emission source, facility type, or type of technology. Therefore, a potential standard or protocol might be specific to a type of methane source (*e.g.,* hydrocarbon liquid storage tanks, landfill working face) and a specific measurement approach (*e.g.,* drone, aircraft, vehicle-based, or multi-platform based). For example, for a specific type of source, a potential standard or protocol might include a detection limit below a certain methane emissions rate threshold, a sampling frequency and duration (*e.g.,* 1 overpass weekly) to ensure representative sampling of operating activities throughout the reporting year, the inclusion of specific ancillary data (*e.g.,* wind speed and direction), and the use of a transparent and peer-reviewed methodology (*e.g.,* inverse analysis, statistical sampling) to quantify the annual total methane emissions to within a specified level of accuracy (*e.g.,* 90%). To the extent that information provided in response to the questions below are specific to a particular emissions source, facility type, or technology type, please indicate the applicability in the comments provided.

II. Questions

1. Quantification of Annual Emission Rates

EPA is requesting information on issues related to the quantification of methane emissions using currently available advanced measurement technologies, including: (1) detection and quantification of methane emission rates; (2) approaches for extrapolating observation-based methane emission rates to estimate annual total emissions; and (3) approaches for quantifying annual total methane emissions for sources that emit at rates below technology minimum detection thresholds. Detailed questions on each topic are listed below. Please provide detailed answers and citations to relevant resources.

a. Detection and Quantification of Atmospheric Methane Emission Events From Advanced Measurement Technologies

Advanced technologies for methane detection, such as instruments deployed on satellite, aircraft, or in the form of continuous monitors, can be used to detect methane emissions. These technologies do not directly quantify methane emission rates but require additional analytical tools and methods to transform the raw sensor measurements (*e.g.,* change in light attenuation) into quantified methane emission rates (*e.g.,* kg/hour) associated with each observation. Quantification approaches can include but are not limited to the inverse analysis of observed concentrations, the use of dispersion modeling, co-emitted tracer releases, or mass balance approaches. Based on the wide variety of detection and quantification approaches currently available, EPA requests comment on the following:

i. What advanced measurement technologies are currently available that can provide quantified methane emission rates using transparent, open-source, and standardized methodologies? What are the specific quantification approaches that have been used with these technologies, and how have these methodologies been demonstrated and validated? How can these technologies and quantification methodologies be used to provide annual data in a consistent manner for each future year of GHGRP reporting? Are there specific detection and quantification approaches or methodologies that EPA should or should not consider?

ii. What performance metrics and threshold(s) related to quantification would be appropriate to apply to advanced measurement technologies for their incorporation into the GHGRP? For example, should EPA consider: thresholds for the methane detection limit (*e.g.,* minimum emissions leak rate), thresholds for the probability of detection (*e.g.,* rate of false positives or negative detections), specific levels of accuracy for quantification, specific measurement frequencies, or other? What would be a feasible approach for developing these thresholds and metrics?

iii. Should quantification approaches be limited to the use of specific methodologies (*e.g.,* inverse analysis, mass balance) or specific approaches for using ancillary datasets (*e.g.,* standardized interpolation of wind field products)?

iv. Are there ongoing efforts outside of EPA to develop standards or protocols for methane emissions detection and quantification from advanced measurement technologies that would address any of the questions raised in this RFI? If so, please specify which efforts and which question(s) can/will be answered and when these standards or protocols will be publicly available.

b. Extrapolating Quantified Methane Emission Rates To Calculate Annual Emissions for GHGRP Reporting Purposes

Different advanced measurement technologies provide data at different sampling frequencies (*e.g.,* continuous to weekly) and durations (*e.g.,* seconds to hours). Depending on the type of technology and emissions source sampled, different approaches have been used to extrapolate observation-based methane emission rates to estimate total annual emissions for a specific region, facility, or site. These approaches often require additional information on the frequency and duration of the sampled emission events, information on the population of sampled emission sources, site-specific

operational activities, or statistical analytical approaches. EPA seeks comment on the following:

i. What advanced measurement technologies are currently available that can provide annual total methane emission estimates for specific regions, facilities, processes, or equipment-level sources, that use transparent, open-source, and standardized methods? Are these technologies applicable across the entire U.S. and could they provide annual data in a consistent manner for each future year of GHGRP reporting? Are there specific annual extrapolation approaches or methodologies that EPA should or should not consider?

ii. What accuracy or uncertainty metrics would be appropriate for GHGRP reporting purposes? For example, what level of accuracy in reported annual methane emissions should advanced measurement technologies be required to meet? What sources of uncertainty are necessary to consider? Are there other specific quality assurance or quality control markers that should be considered to ensure that annual estimates represent the methane emissions from all operational activities throughout the reporting year, such as specific measurement frequencies or duration? What would be a feasible approach for developing these thresholds and metrics?

iii. To what extent should standards and protocols be specific to the type of methods and ancillary data used (*e.g.,* statistical approaches), and to what extent should standards and protocols simultaneously consider the specific type of emission sources being sampled (*e.g.,* large unintended vs. small routine emissions event)?

c. Quantifying Annual Methane Emissions From Emissions Sources Below Detection Limits of Advanced Measurement Technologies

Different advanced measurement technologies also have different detection thresholds (*e.g.,* ~1 kg/hr to above 100 kg/hr), in part dependent on the distance of the instrument from the source (*e.g.,* typically larger detection limit for instruments on satellites compared to aircraft), instrument type, and sampling strategy. In the current GHGRP, a significant number of sources emit methane at rates below these typical detection limits (*e.g.,* a component leak will typically emit at rates significantly below 1 kg/hr). To account for methane emissions from these additional sources, various methodologies and statistical approaches have been developed to estimate total annual emissions to complement the data collected from advanced technology measurements. EPA seeks comment on the following:

i. What methodologies are currently available for integrating estimates of methane emissions for those sources emitting below technology detection thresholds in an open-source, transparent, and standardized way? Can these methodologies provide annual data in a consistent manner for each future year of GHGRP reporting? Are there specific approaches or methodologies that EPA should or should not consider?

ii. Should these quantification approaches be limited to the use of specific methodologies (*e.g.,* Monte Carlo method) or specific ancillary datasets (*e.g.,* the use of standardized infrastructure or operator data)?

2. Attribution

EPA is requesting comment and information regarding attribution of quantified methane emissions (from discrete events or annual totals) to specific GHGRP facilities, sites, or sources.

In addition to differences in temporal resolution, advanced measurement technologies have spatial resolutions that can range from kilometers (*e.g.,* satellite) to site or individual equipment scales (*e.g.,* ground-based sensors). There are different approaches for attributing observed events to a specific equipment type, process, or facility depending on the specific type of technology used and sampling distance from the emissions source. These approaches often require ancillary information such as infrastructure data, site operator data, or meteorological data such as wind speed and direction. EPA seeks comments on the following:

a. What methodologies are currently available that can attribute quantified methane emission events to specific equipment types (or additionally, specific regions, facilities, or processes) using transparent, open-source, and standardized methods? Are there specific attribution approaches or methodologies that EPA should or should not consider?

b. What accuracy or uncertainty metrics would be appropriate for GHGRP reporting purposes? For example, what level of confidence in the source attribution would be necessary for advanced measurement technologies to meet for GHGRP reporting purposes? What would be a feasible approach for developing these thresholds?

c. To what extent would standards and protocols need to be specific to the type of methods and ancillary data used (*e.g.,* infrastructure datasets) or the type of emission source sampled (*e.g.,* large unintended vs small routine emissions event)?

3. Implementation

EPA is requesting comment and information on issues related to the implementation of advanced measurement technologies into the GHGRP.

Implementation considerations include the need for quantifying annual total methane emissions from oil and gas and MSW landfill applicable sources across the U.S. in a transparent and standardized way, validation and verification of the reported data, and additional potential uses of advanced measurement technologies for the GHGRP. EPA also requests information on additional data that could be reported for the verification of methane emissions estimates produced using advanced measurement technologies.

a. Structure of Approaches or Protocols

i. What form would standard method(s) or protocol(s) need to take to ensure that advanced measurement technologies provide annual total, source-specific, methane emissions in a transparent and standardized way? For example,

(1) To what extent should standards and protocols be specific to the type of methods used (*e.g.,* satellite, aircraft, ground-based)? In addition, would different standards or protocols be necessary for sampling approaches using single platform vs. multi-platform measurements? Could standard methods be developed to be technology agnostic?

(2) To what extent could standard method(s) be developed to be source agnostic? For example, would standards need to be specific to the type of equipment, process, or emission source sampled (*e.g.,* tanks, flares, pneumatic devices, landfill working face), or could a set of standard(s) be developed to be more broadly applicable across different GHGRP industry segments (*e.g.,* oil and gas operations and landfills)? Alternatively, would different standards be necessary for different types of methane emission events sampled (*e.g.,* large unintended vs small routine emissions events)?

b. Verification and Validation of Annual Source-specific Methane Emission Quantification Methods Using Advanced Measurement Technologies for GHGRP Reporting Purposes

i. Are there approaches currently available that could be used to verify that advanced measurement technologies meet specific standards (*e.g.,* independent blind studies,

deployment of calibration standards, other)?

ii. Is it necessary to limit the applicability of advanced measurement technologies to environmental and site conditions that have been previously validated? For example, if an advanced measurement technology has been validated through blind control release testing during which wind speeds ranged from 0.5 to 10 m/s, should the technology be limited to measurements within this range of wind speeds? What form of validation could be used to demonstrate whether a technology is applicable across environmental conditions outside of their tested ranges?

iii. Are there specific types of operator- or facility-specific information that would be useful for improving or validating annual methane emissions quantification or source attribution from advanced measurement technologies?

c. Other Considerations Related to the Use of Advanced Measurement Technologies for GHGRP Reporting Purposes

i. What (if any) are the current barriers or limitations to using advanced measurement technologies beyond what is currently allowed under the GHGRP to quantify annual equipment-level methane emissions at scale in the U.S.?

ii. What are the cost considerations for implementing different advanced measurement technologies to quantify annual, equipment-, process-, or facility-level methane emissions for GHGRP reporting purposes? If available, costs should be provided in a manner that can be scaled up to different implementation approaches (*e.g.,* cost per site, cost per area covered).

iii. How are factors such as measurement and analysis cost, complexity, or time burden relevant for determining whether advanced measurement technologies may be appropriate for annual GHGRP application?

iv. Other than methane emissions detection and quantification, and establishing the duration of emission events as permitted under Subpart W for Other Large Release Events, are there additional ways in which advanced measurement technologies could be used to support quantification and reporting of equipment-, process-, or facility-level methane emissions to the GHGRP (*e.g.,* as a method to identify changes in operating conditions, to supplement specific reported data elements)?

Sharyn Lie,

Director, Climate Change Division.

[FR Doc. 2024–19403 Filed 8–28–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2011–0374; FRL–12220–01–OCSPP]

Dimethyl Tetrachloroterephthalate (DCPA); Notice of Receipt of Requests to Voluntarily Cancel Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA or Agency) is issuing a notice of receipt of requests by the DCPA registrant to voluntarily cancel DCPA pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will not be permitted after the registrations have been cancelled consistent with the terms as described in the final order.

DATES: Comments must be received on or before September 30, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2011–0374, online at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: James Douglass, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–566–2343; email address: *douglass.james@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What action is the Agency taking?

This notice announces receipt by the Agency of requests from the DCPA registrant to cancel 3 pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) or section 24(c) (7 U.S.C. 136v(c)). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Company No.	Product name	Active ingredients
5481–495	5481	Technical Chlorthal Dimethyl	Dimethyl tetrachloroterephthalate (DCPA).
5481–487	5481	Dacthal Flowable Herbicide	DCPA.
WI050002	5481	Dacthal W–75 Herbicide	DCPA.

Table 2 of this unit includes the name and address of record for the DCPA registrant of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2—REGISTRANT REQUESTING VOLUNTARY CANCELLATION

EPA company No.	Company name and address
5481	AMVAC Chemical Corporation, 4695 MacArthur Court, Suite 1200, Newport Beach, CA 92660.

III. What is the Agency's authority for taking this action?

FIFRA section 6(f)(1) (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

FIFRA section 6(f)(1)(B) (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period; or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrant in Table 2 of Unit II. has requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

If the registrant decides to withdraw a request for cancellation, it should submit such withdrawal request in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Upon cancellation of the products identified in Table 1 of Unit II., EPA anticipates prohibiting registrants and persons other than registrants to sell, distribute, or use existing stocks of these products effective the date of that the cancellation notice is published in the **Federal Register**. As of the publication date of this notice, all products identified in Table 1 of Unit II. are subject to a prohibition on sale, distribution, and use pursuant to the Agency's August 6, 2024. issuance of an Emergency Order of Suspension. See 89 FR 64445, August 7, 2024 (FRL–12147–01–OCSPP). Registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will not be allowed to sell, distribute, or use existing stocks.

Authority: 7 U.S.C. 136 *et seq.*

Dated: August 26, 2024.

Jean Overstreet,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2024–19424 Filed 8–28–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2024–N–12]

Federal Advisory Committee on Affordable, Equitable, and Sustainable Housing; Postponement of Meeting

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of meeting postponement.

SUMMARY: The Federal Housing Finance Agency (FHFA) is postponing the Advisory Committee on Affordable, Equitable, and Sustainable Housing (Committee) meeting originally scheduled for September 10 and 11, 2024. Future meeting dates will be announced in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Paul Theruviparampil, Senior Policy Analyst, Office of Housing & Community Investment, Division of Housing Mission and Goals, (202) 649–3982, *ACAESH@fhfa.gov;* or Ted Wartell, Associate Director, Office of Housing & Community Investment, Division of Housing Mission and Goals, (202) 649–3157 (not toll-free numbers), *Ted.Wartell@fhfa.gov,* Federal Housing Finance Agency, Constitution Center, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with disabilities, dial 711 and ask to be connected to one of the contact numbers above.

SUPPLEMENTARY INFORMATION: The Committee meeting was originally announced in the **Federal Register** of August 14, 2024 (89 FR 66114). The rescheduled meeting will be held in the first quarter of 2025. Further details, including the specific date and location, will be provided in the coming months through a **Federal Register** notice.

Members of the public who wish to provide comments or obtain information

about the Committee may contact the individuals listed above.

Sandra L. Thompson,

Director, Federal Housing Finance Agency.

[FR Doc. 2024–19453 Filed 8–28–24; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than September 30, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414. Comments can also be sent electronically to *Comments.applications@chi.frb.org:*

1. *ChoiceOne Financial Services, Inc., Sparta, Michigan;* to merge with Fentura Financial, Inc., and thereby indirectly acquire The State Bank, both of Fenton, Michigan.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2024–19450 Filed 8–28–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. P222100]

HISA Proposed 2025 Budget

AGENCY: Federal Trade Commission.

ACTION: Notice of publication of Horseracing Integrity and Safety Authority 2025 proposed budget; request for public comment.

SUMMARY: The Federal Trade Commission publishes the 2025 proposed budget of the Horseracing Integrity and Safety Authority and seeks public comment on whether the Commission should approve, disapprove, or modify the proposed budget.

DATES: Comments must be filed on or before September 12, 2024.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the **SUPPLEMENTARY INFORMATION** section. Write ''HISA 2025 Budget, Matter No. P222100'' on your comment and file it online at *https://www.regulations.gov* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex H), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sarah Botha (202–326–2036), Attorney Advisor and Acting HISA Program Manager, Office of the Executive Director, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Horseracing Integrity and Safety Act,[1] enacted on December 27, 2020,[2] and amended on December 29, 2022,[3] directs the Federal Trade Commission to oversee the activities of a private, self-regulatory organization called the Horseracing Integrity and Safety Authority (''HISA'' or the ''Authority''). In March 2023, the Commission issued rules setting forth the procedure whereby the Commission approves, disapproves, or modifies the Authority's proposed annual budget.[4] Under these rules, the Authority must first publish a proposed budget on its own website and invite public comments. *See* 16 CFR 1.150(b). Thereafter, the Authority must forward the budget to the Commission, along with all public comments received and an assessment of those comments, and must identify any changes made to the proposed budget in response to the comments received. 16 CFR 1.150(c). The Authority's submission must also include (a) a statement of the vote by the Authority's Board of Directors approving the proposed budget; (b) information about revenues, including how fees are calculated and apportioned; (c) information about expenditures, broken down by program area, *e.g.,* the racetrack safety program, the anti-doping and medication control program, etc.; (d) sufficient information about individual line items for the Authority's Board of Directors to exercise their fiduciary duty of care; and (e) information comparing actual revenues and expenses against the approved budget and explaining variances of greater than 10 percent. *Id.*

After the Authority submits its proposed budget and supporting materials to the Commission, and if the Secretary determines the submission comports with the requirements of the 16 CFR 1.150(c), the Secretary publishes the Authority's proposed budget in the **Federal Register** and invites public comment for a period of 14 days. 16 CFR 1.150(d). After taking into consideration the comments submitted, the Commission either approves or disapproves the budget. 16 CFR 1.151(a). The Commission will approve the proposed budget if ''the Commission determines that, on balance, the proposed budget is consistent with and serves the goals of the Horseracing Integrity and Safety Act in a prudent and cost-effective manner and that its anticipated revenues are sufficient to meet its anticipated expenditures.'' 16 CFR 1.151(c). The Commission may also modify the amount of any line item. 16 CFR 1.151(d).

Request for Comments

On July 31, 2024, the Authority forwarded to the Commission a Notice of Filing of HISA Budget, together with appendices furnishing detailed information pertinent to its 2025 budget proposal (as required by 16 CFR 1.150(c)). The Notice of Filing of HISA

Budget is reproduced below. The appendices to which it refers have been collected and reproduced as a supporting document on the docket for this publication at *https://www.regulations.gov.*

The Secretary concluded that the Authority's proposed 2025 budget submission complies with the requirements of 16 CFR 1.150(c), and therefore issues this document and invites comments from the public on the Authority's 2025 budget. Comments should address the decisional criteria set forth in 16 CFR 1.151(c) and whether any line items should be modified. *See* 16 CFR 1.150(d).

Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before September 12, 2024. Write ''HISA 2025 Budget, Matter No. P222100'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including the *https://www.regulations.gov* website.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we strongly encourage you to submit your comments online. To make sure the Commission considers your online comment, you must file it at *https://www.regulations.gov,* by following the instructions on the web-based form.

If you file your comment on paper, write ''HISA 2025 Budget, Matter No. P222100'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex H), Washington, DC 20580. If possible, please submit your paper comment to the Commission by overnight service.

Because your comment will be placed on the publicly accessible website at *https://www.regulations.gov,* you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''any trade secret or any commercial or financial information . . . which is privileged or confidential.'' 15 U.S.C. 46(f); *see* 16 CFR 4.10(a)(2). In particular, your comment should not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* 16 CFR 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *https://www.regulations.gov,* as legally required by 16 CFR 4.9(b), we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under 16 CFR 4.9(c), and the General Counsel grants that request.

Visit the *https://www.regulations.gov* to read this document. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before September 12, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

The text that follows is the Notice of Filing of HISA Budget that the Authority submitted to the Commission. The appendices to which it refers have been collected and reproduced as a supporting document on the docket for this publication at *https://www.regulations.gov.*

Notice of Filing of HISA Budget

Pursuant to the Horseracing Integrity and Safety Act of 2020[5] (the ''Act'') and the Federal Trade Commission's (the ''Commission'') Procedures for Oversight of the Horseracing Integrity and Safety Authority's Annual Budget,[6] notice is hereby given that on July 31, 2024, the Horseracing Integrity and Safety Authority (''HISA'' or the ''Authority'') filed with the Commission the Authority's proposed 2025 budget. This Notice of Filing of HISA Budget (the ''Notice'') provides the contents of the submission as set forth in 16 CFR part 1 Subpart U.

I. *Information Concerning Rule 1.150(b).* The Authority's proposed 2025 budget was posted on the HISA website (*hisaus.org*) on July 11, 2024. The Authority received one comment regarding the budget. Section VI contains a further discussion of the comment. The Authority did not make any revisions to the proposed budget in light of the comment.

II. *Information Concerning Rule 1.150(c)(1).* The Authority's proposed 2025 budget was approved by its Board of Directors by a vote of 9 to 0 before the proposed budget was posted on the HISA website and was approved by the Board of Directors by a vote of 9 to 0 after reviewing the comment submitted by Mr. Cohen. Therefore, the requirements of 15 U.S.C. 3052(f)(1)(C)(iii) and Rule 1.150(c)(1) have been satisfied.

III. *Information Concerning Rule 1.150(c)(2).* In accordance with 15 U.S.C. 3052(f) and using the Assessment Methodology Rule approved by the Commission, the Authority calculated the following:

- 2025 Assessments by State (attached as Appendix 8).
- 2025 Assessments by Track (attached as Appendix 9).

Appendix 8 and Appendix 9 display the estimated amount required from each State Racing Commission as calculated under the Assessment Methodology Rule.

The 2025 HISA Budget includes the following revenue line items:

- Racetrack Safety Fines Income—this consists of fines levied for violations of the Racetrack Safety Program.
- ADMC Fines Income—this consists of fines paid for violations of the Anti-Doping and Medication Control Program.
- Lab Test Income—this consists of the money paid to HISA to cover the cost of B Sample testing, claimed horse testing, and clearance testing.
- Interest Income—This consists of interest income from HISA's Money Market Savings account.
- Other Revenue—this consists of payments made by certain racetracks to reimburse HISA for paying for the cost of Racetrack Safety Program compliance (there is an offsetting expense).

Please note that no loans are contemplated to be procured by HISA in 2025.

IV. *Information Concerning Rule 1.150(c)(3).* The Authority's proposed 2025 budget includes the following expense line [7] items:

- Rule 1.150(c)(3)(i): Racetrack Safety Program. These expenditures consist primarily of salaries for staff to monitor and implement the Racetrack Safety Program, racetrack surface testing, and vendors and contract employees that support the Racetrack Safety Program.
- Rule 1.150(c)(3)(ii): Anti-Doping and Medication Control. Pursuant to 15 U.S.C. 3054(e), the Authority contracted with the Horseracing Integrity and Welfare Unit (''HIWU'') to serve as the independent anti-doping and medication control enforcement organization for covered horses, covered persons, and covered horseraces. HIWU implements the Anti-Doping and Medication Control Program on behalf of the Authority. Expenditures related to this Program include HIWU costs, lab testing, and professional services. Additionally, 15 U.S.C. 3055(e) provides that the Authority ''shall convene an advisory committee . . . to conduct a study on the use of furosemide on horses during the 48-hour period before the start of a race, including the effect of furosemide on equine health and the integrity of competition and any other matter the Authority considers appropriate.'' The costs of this study are included in the Anti-Doping and Medication Control portion of the proposed 2025 budget.
- Rule 1.150(c)(3)(iii): Other programmatic expenses. These expenditures consist primarily of salaries, professional services, and technology to support the Authority's veterinary and technological needs. Additional programmatic expenditures relate to the business and operational components of the Authority and include expenses such as salaries, legal (lawsuits and general), and professional services.
- Rule 1.150(c)(3)(iv): Repayment of any loans. This expenditure consists of $250,000 in repayment of loans.
- Rule 1.150(c)(3)(v): No funding shortfall is expected.

V. *Information Concerning Rule 1.150(c)(4).* The Act recognizes that the establishment of a national set of uniform standards for racetrack safety and anti-doping and medication control will enhance the safety and integrity of horseracing. The 2025 budget allows the Authority to continue implementation of the horseracing Anti-Doping and Medication Control Program and the Racetrack Safety Program for Covered Horses, Covered Persons, and Covered Horseraces.

The proposed 2025 HISA Summary budget (Appendix 1) is a compilation of the following departmental budgets: Racetrack Safety (Appendix 2); Veterinary Services (Appendix 3); Anti-Doping and Medication Control (Appendix 4); HIWU (Appendix 5); Technology (Appendix 6); and Administration (Appendix 7). A summary of these departmental budgets is set forth below:

1. The 2025 Racetrack Safety budget funds the implementation of the Racetrack Safety Program as set forth in Rule Series 2000 and as originally approved by order of the Commission dated March 3, 2022.[8] The budget consists of the following items:

a. Salaries/Payroll Taxes/Employee Benefits. The salaries provide for staffing to support and monitor the Racetrack Safety program, including those persons necessary to oversee the following components of the program:

i. Administration
ii. Track Accreditation Services
iii. Stewards' & State Racing Commission Liaison
iv. Jockey Health & Welfare

Salary levels for each position are based on market rates, while Employee Benefits consist primarily of a HISA contribution to cover a portion of employee health insurance and a 401(k) match that is consistent with market practice. The salaries budget provides for six racetrack safety employees. As of July 31, 2024, the Racetrack Safety Program has six employees. For all employees of the Authority, the Director of Operations and Compliance, an individual who does not have a conflict of interest with regard to the hiring of other open positions, reviews and documents compensation based on industry norms for similar positions prior to setting and to offering other open positions. Where needed, the Director of Operations and Compliance relies upon an outside search agency to help determine compensation for other open positions.

b. Meetings. This includes the travel, meals, and materials to support the following annual meetings:

i. Track Superintendents
ii. Racetrack Safety Committee

These meetings are necessary to promote the health and safety of both Covered Horses and Riders.

c. Travel. This category covers the travel and meal expenses for all of the employees previously listed in Salaries (section a) of this department (excluding the travel and meal expenses for the Meetings described in section b. and the Track Accreditation Services travel set forth in section f.). Travel to Covered Racetracks by Authority employees is often necessary to ensure that Covered Horseraces are run in accordance with the standards established in HISA's Racetrack Safety Program.

d. Supplies. This primarily consists of materials to be used in educational and Continuing Education programs provided and overseen by the Racetrack Safety Department. These programs ensure that trainers, jockeys, veterinarians, and stewards are educated in methods and procedures that promote the health and safety of Covered Horses and Riders.

e. Professional Services. Several independent contractors and external service provider companies will partner with HISA on a part-time basis to provide and/or augment services in the following areas:

i. Data Analysis
ii. Research/Testing
iii. Statistical Analysis
iv. Jockey Concussion Tracking
v. National Medical Director
vi. Study on the causes of Exercise-Associated Sudden Death (EASD) in racehorses

Pay rates are based on market rates for similar positions. All of these independent contractor relationships will increase the knowledge base and/or education level of participants in Covered Horseraces.

f. Track Accreditation Services. Pursuant to 15 U.S.C. 3056 and the Racetrack Safety rules, the Authority is responsible for implementing an evaluation and accreditation program that ensures that Covered Racetracks meet certain safety and performance standards. Both the Act and the Racetrack Safety rules require that tracks be accredited, and the rules mandate site visits to determine the extent of compliance with the rules. The accreditation visits afford HISA staff the ability to conduct an in-depth and in-person review of a racetrack's operations to determine its level of compliance with the Racetrack Safety Program and to provide training on how best to meet ongoing reporting requirements. This category includes the costs of compensating teams of employees and independent contractors to perform these site visits, and the costs of covering the travel and meal expenses for this team.[9] The accreditation site visits are conducted by teams of three to four individuals. The costs included in this category are based on the actual cost of accreditation site visits in 2023 and 2024.

g. Racetrack Surface Testing. This category includes the cost of pre-meet track surface testing of tracks that run

Covered Horseraces. Testing is performed to ensure that track surfaces comply with the Racetrack Safety Program. This testing is performed by the Racing Surfaces Testing Laboratory.

2. The 2025 Veterinary Services budget ensures that the veterinary care component of the Racetrack Safety Program is effectively implemented and administered nationally.

a. Salaries/Payroll Taxes/Employee Benefits. This category contemplates four HISA full-time employees that cover the administration of veterinary rules, compliance with those rules, and veterinary medical records. Salary levels for each position are based on market rates, while Employee Benefits consist primarily of a HISA contribution to cover a portion of employee health insurance and a 401(k) match that is consistent with market practice. As of July 31, 2024, the Veterinary Services department has four employees.

b. Meetings. This includes the travel, meals, and materials to support the Equine Safety Directors Meeting. This meeting is necessary to promote the health and safety of both Covered Horses and Riders.

c. Travel. This includes the costs of travel by veterinary employees to racetracks to meet with regulatory veterinarians, attending veterinarians, and other practicing equine veterinarians and their staff. This also includes travel to training seminars and veterinary conferences. Participation by veterinary employees in these meetings and seminars will result in a more effective and efficient program that better meets the needs of HISA's constituents.

d. Supplies. This primarily consists of materials to be used in educational and Continuing Education programs provided and overseen by the Veterinary Services department. These programs ensure that trainers, jockeys, veterinarians, and stewards are educated in methods and procedures that promote the health and safety of Covered Horses and Riders.

e. Professional Services. Several independent contractors will partner with HISA on a part-time basis to provide and/or augment services in areas including veterinary consulting and data entry.

Pay rates are based on market rates for similar positions. All of these independent contractor relationships will increase the knowledge base and/or education level of veterinarians and other participants in Covered Horseraces.

3. The 2025 Anti-Doping and Medication Control budget supports the implementation of the ADMC Protocol. The budget consists of the following items:

a. Travel. This line item covers the travel and meal expenses that are expected to be incurred by HISA personnel to support and achieve the goals of the ADMC Program.

b. Supplies. This line item sets forth the cost of materials utilized by the Authority to support and achieve the goals of the ADMC Program.

c. Professional Services. Independent contractors have partnered with HISA on a part-time basis to provide and/or augment services in the following areas:

i. Arbitration—this covers the fees to be paid to arbitrators who preside over cases involving positive tests for banned substances.

ii. Independent Adjudication Panel (IAP)—this covers the fees paid to members of the IAP, who hear cases involving positive tests for controlled medications.

iii. Furosemide Study—this covers the fees to be paid in 2025 for the furosemide study that is required by the Act.

d. HIWU. As set forth above, the Act requires that HISA contract with an independent enforcement agency to oversee the components of the ADMC Program. HIWU, a division of Drug Free Sport (''DFS''), was retained by the Authority as the independent enforcement agency. The HIWU line items in the ADMC budget consist of the following:

i. Salaries/Payroll Taxes/Employee Benefits. All HIWU employees are employed by DFS. The salaries account for a staff (expected to total 43 full-time individuals) that will carry out all of the responsibilities of the enforcement agency, including those persons necessary to oversee and complete the following components of the program:

1. Testing Operations
2. Testing Strategy
3. Compliance & Policy
4. Collection Personnel Recruitment, Training, & Certification
5. Support Line Management
6. Science
7. Laboratory Accreditation
8. Equine Medical Resources
9. Intelligence & Strategy
10. Investigative Operations
11. Education
12. Communications & Outreach
13. Legal
14. Litigation
15. Results Management
16. Information Technology
17. Human Resources
18. Finance

HIWU shares 7 staff with DFS in the areas of Information Technology, Finance, and Human Resources. This arrangement produces cost savings, obviating the need for HIWU to retain full-time employees to provide these services.

ii. Rent. HIWU has procured 3,000 sq. ft. of office space for its employees. HIWU is paying $32/sq. ft., which is consistent with market rates in the Kansas City area. The cost of basic office equipment is also included in this category.

iii. Office Expense. This consists of common office expenses such as utilities and maintenance costs and is based on historical costs for similar businesses.

iv. Telecommunications. This consists of the cost of office phones, mobile phone service at $65/month/employee (a commercially reasonable rate), and portable hot-spot wi-fi services to be used in test barns.

v. Travel. This is the travel expense necessary for full-time employees to perform functions such as meetings with State Racing Commissions and track associations, training and continuing education sessions with sample collection personnel, conducting investigations, arbitration hearings, laboratory visits, meetings with HISA personnel, and participation in industry meetings and conventions. Travel expenses include airfare, hotel rooms, rental cars, fuel costs, mileage for personal vehicles used for business purposes, parking, and meals. The amounts for each expense component were based on estimated market average costs.

vi. Supplies. This consists of drug testing supplies needed for sample collections and sample collection personnel training.

vii. Professional Services. This consists largely of consulting fees paid to experts in the areas of:

1. Results Management
2. Investigations and State Racing Commission Relations
3. Laboratory Accreditation

The guidance provided by these subject matter experts will result in a safer sport run on a more level playing field.

viii. Technology. This consists of the cost of all software, hardware, licenses and continued technological development needed to perform HIWU's work.

ix. Insurance. The expense consists of the cost of all of HIWU's insurance policies, including liability insurance with an Umbrella policy, cyber-risk insurance, property insurance, and workers' compensation insurance.

x. Resources and Education. This includes Training and Continuing

Education, registration fees for industry conferences, accounting fees for state tax filings, and dues and subscriptions to industry publications. All of these are necessary for HIWU to properly conduct its business.

xi. Taxes—Other. Estimated taxes based on historical experience. These taxes are minimal in amount and are commercially reasonable.

xii. ADMC Collection Costs. This includes wages paid to sample collection personnel in all states that conduct Covered Horseraces. The wage amounts were initially based on rates paid to sample collection personnel in each state prior to HIWU assuming these sample collection functions and have been adjusted where necessary to reflect rates currently being paid. Additionally, to cover travel expenses specifically related to sample collection, this includes airfare, hotel rooms, rental cars, fuel costs, mileage for personal vehicles used for business purposes, parking, and meals. The amounts for each expense component were based on estimated market average costs.

xiii. Management Fees. This is the profit amount to HIWU for administering the program. It is a negotiated amount of 8% of the total expenses incurred for services that HIWU provides directly and 4% for everything else.

e. Lab Testing. Once the samples to be tested have been collected by HIWU personnel, they are shipped to one of five accredited laboratories located in the United States. All of the laboratories have many years of experience in the testing of blood, urine, and hair samples taken from thoroughbred racehorses. HIWU has conducted extensive negotiations with each of these laboratories in order to ensure that competent testing is performed at the lowest price possible. One way HIWU has successfully reduced costs is by utilizing only five laboratories to perform testing, instead of the nine laboratories previously used by various State Racing Commissions across the country. This allows the five laboratories to spread their fixed costs (salaried employees, testing equipment, etc.) over a larger number of samples, resulting in a lower charge per test.

It is important to note that the ADMC Collection Costs and Lab Testing line items represent 47.96% of the total budget of the Authority.

4. The 2025 Technology budget supports the building and development of all IT systems needed to properly and efficiently manage the Racetrack Safety and ADMC programs. The budget consists of the following items:

a. Salaries/Payroll Taxes/Employee Benefits. This contemplates nine HISA full-time employees in areas including programming, field support, internal support, external support, project administration, and third-party developer coordination. Salary levels for each position are based on market rates, while Employee Benefits consist primarily of a HISA contribution to cover a portion of employee health insurance and a 401(k) match that is consistent with market practice. As of July 31, 2024, the Technology department has seven employees.

b. Travel. This includes the costs of travel by IT employees to racetracks to meet with customers/users, to Lexington, Kentucky and Montclair, New Jersey for HISA meetings, and to training seminars and technology summit meetings. Participation by IT employees in these meetings and seminars will result in a more efficient program that better meets the needs of the constituents and will ensure alignment between the functionality of the system and the published regulations.

c. Supplies. This includes the purchase of laptops for all HISA employees, the provision of workstations for those employees located in the Lexington office, and the hardware/software/3rd-party services needed for image processing. These items are necessary for HISA to efficiently perform its duties under the Act.

d. Technology. This item includes the costs of cloud computing and other specialized applications that together form the foundation of HISA's technology system. This includes the cost of Palantir, Amazon Web Services, and other vendors relating to the HISA website and technology systems. In order to be as cost-effective as possible, HISA has chosen not to invest in centralized computing assets. This keeps total cost of ownership low and infrastructure stability high, and it enables solution flexibility as HISA is engaged in meeting its mandate.

e. Professional Services. This item budgets for outsourced technology delivery provided by third-party system integrators and software factories. Given the need for cost-effective, round-the-clock services, the necessary software and technology systems were procured internationally from development resources in the US, Europe, and Asia; this allowed for the implementation of a 24-hour code and test development cycle. This is the most cost-effective method of building and maintaining technology systems/portals to facilitate program reporting to and monitoring by HISA.

5. The 2025 Administration budget consists of the general and administrative staff and expenditures that are needed to conduct HISA's business. This budget consists of:

a. Salaries/Payroll Taxes/Employee Benefits. This contemplates 13 employees including executive-level personnel (the CEO and CFO) and employees in Legal, Communications, Operations/Compliance, Public Affairs, and Administrative Services. Salary levels for each position are based on market rates, while Employee Benefits consist primarily of a HISA contribution to cover a portion of employee health insurance and a 401(k) match that is consistent with market practice. As of July 31, 2024, nine employees make up the Administration Department.

b. Board and Committee Travel. This consists of travel, hotel, and meal expenses for the one annual board meeting that is held with in-person attendance by the board members.

c. Rent. In the fall of 2024, HISA anticipates moving its office location to a 1,798 sq. ft. office space in Lexington, Kentucky. HISA expects to pay $18/sq. ft., which is consistent with market rates in the Lexington area. The costs of basic office equipment and furniture are also included in this category.

d. Phones. This is the cost of an office phone system in HISA's corporate office, necessary for HISA to conduct its business.

e. Meetings. This is the cost of miscellaneous meetings of HISA's corporate staff as are necessary for HISA to conduct its business.

f. Travel. This includes airfare, car rental, mileage, and meals for HISA's corporate staff in the course of traveling to Covered Racetracks, industry meetings, HISA meetings (strategic planning summits, board meetings, etc.), and meetings with industry stakeholders. Travel to these events allows HISA's corporate staff to conduct its business more efficiently and to perform its duties under the Act.

g. Membership and Subscriptions. This is the cost of professional membership dues and subscription fees. These memberships allow HISA staff to meet with industry stakeholders and carry out its duties under the Act.

h. Bank and Credit Card Fees. This includes the cost of bank fees and credit card fees. These fees are necessary to efficiently and effectively conduct business.

i. Supplies. This includes the cost of office supplies, including printer/copier paper, printer/copier ink and toner,

postage, shipping, and other miscellaneous office supplies.

j. Postage. This includes the cost of postage and shipping for communications to Covered Persons. While HISA primarily conducts business via electronic communications, U.S. Mail is required where the recipient does not utilize an electronic means of communication.

k. Accounting Services. This consists of the cost of a contract bookkeeping service that books accounting entries, produces financial statements, manages and processes Accounts Receivable, manages and processes Accounts Payable, and drafts/files HISA's annual IRS Form 990. Contracting this work out to a company with expertise in these areas is much more cost-effective than if HISA were to hire staff to perform these functions in-house. Additionally, this includes the cost of an annual independent audit of HISA.

l. Public Relations Services. This is the cost of a contract public relations service to manage HISA's website, issue press releases, assist with the production and distribution of information to industry stakeholders, and provide continuing education information for industry stakeholders. The public relations firm that HISA is working with has many years of expertise in P/R for thoroughbred racing enterprises. The firm can perform the aforementioned tasks more efficiently and effectively than if HISA were to hire staff to perform these tasks in-house.

m. Legal—General and Lawsuits. This includes the cost of outside legal counsel for the creation, management, and updating of Racetrack Safety and ADMC rules as well as the cost of outside counsel that is working on the various lawsuits in which HISA is a party. Additionally, this includes the cost of outside legal counsel that handles enforcement actions brought under the Racetrack Safety Program. Doing all of these tasks requires a decentralized group of lawyers with varied skill sets. At present, it is much more efficient and effective to utilize outside counsel than for HISA to hire a large in-house legal team to handle these issues.

n. Insurance. This includes the following insurance policies for HISA:

i. Directors & Officers insurance.

ii. Workers' Compensation insurance.

All of these policies were competitively shopped by a broker to get the lowest rate possible.

o. Payroll Services. This includes all costs of HISA's relationship with Resource Management, Inc. (RMI), a Professional Employer Organization (PEO). RMI provides Human Resources administration (handbook and policy management resources, new employee onboarding, labor law assistance, etc.), benefits management, compliance services (workers' compensation claims management and annual reporting, unemployment claims management, etc.), and payroll administration (payroll processing, W2 management, vacation tracking, etc.). The relationship with RMI allows these functions to be performed in a more cost-effective manner than if HISA hired employees to perform those functions.

p. Printing and Publication. This includes the cost of printing and publishing various educational and communication materials.

q. Professional Services. This account consists of:

i. Consulting fees to independent contractors assisting HISA with consulting projects and board and executive functions.

ii. $100,000 to fund the preparation of a white paper on the benefits provided by security cameras in shedrows.

iii. $150,000 contingency fund set aside for unexpected expenses.

These items will ensure that HISA has high-quality employees who are well-trained to properly serve its constituents.

Please note that the 2025 HISA budget contemplates the repayment of $250,000 of loans; it does not assume that any funding shortfall will be incurred.

VI. *Information Concerning Rule 1.150(c)(5).* Attached as Appendix 10 is a comparison of the approved HISA 2024 Budget to actual revenues and expenditures. A variance has been calculated for each line item, and a narrative explanation has been provided for all variances >10% and at least $100,000.

VII. *Information Concerning Rule 1.150(c)(6).* The Authority received one public comment after posting the proposed budget on its website. The comment was submitted on July 22, 2024 by Andrew Cohen, a columnist for the Paulick Report, a horse racing publication. Mr. Cohen submitted his article titled, ''Keeping Pace: A Closer Look at HISA's Proposed Budget'' as a comment regarding the budget. The column is attached as Appendix 11. The comment was posted on the Authority's website on the same day that it was submitted by Mr. Cohen. The article sets forth the following suggestions and questions regarding the budget: (i) requesting a summary explanation of the budgetary changes; (ii) question regarding why the lab testing budget went from $21.2 million to $20.5 million; (iii) question regarding revenue reduction from $3.6 million to $2.4 million; and (iv) question regarding credits for sample collection and state laboratory services and whether ''HISA officials expect to charge states and tracks about $2 million less in 2025 than in 2024.''

The Authority's assessment of Mr. Cohen's comment follows: In future years, the Authority will consider including the Notice with the budget on its website. The lab testing budget and collection costs deceased in large part because the 2024 budget included analysis for Louisiana, West Virginia, and Texas, while the 2025 budget does not. As it relates to the question regarding revenue reduction, this revenue line represents revenue from fines. After reviewing the actual fines collected to date, the Authority believes that the budget should be based on the fines expected to be collected instead of fines levied. The larger fines associated with the ADMC program generally accompany a longer suspension and, in these cases, the covered person is not motivated to pay the fine until the suspension has been served.

The Authority did not make any revisions to the proposed budget in light of the comment.

HISA's Conclusion

The proposed budget is consistent with and serves the goals of the Act in a prudent and cost-effective manner. The proposed budget allocates the funding necessary for the successful implementation by HISA of the requirements of the Act. The budget has been carefully analyzed and is narrowly tailored to the various regulatory activities of HISA as contemplated by the Act. As demonstrated herein, the anticipated revenues are sufficient to meet its anticipated expenditures.

By direction of the Commission.

April J. Tabor,

Secretary.

Endnotes

[1] Codified at 15 U.S.C. 3051 through 3060.

[2] Public Law 116–260, 134 Stat. 1182, 3252 (Dec. 27, 2020).

[3] Public Law 117–328, 136 Stat. 4459, 5231 (Dec. 29, 2022).

[4] 88 FR 18034 (Mar. 27, 2023). These rules were amended in February 2024. 89 FR 8530 (Feb. 8, 2024); *see* 16 CFR 1.150–1.152.

[5] 15 U.S.C. 3051 through 3060.

[6] 16 CFR Part 1 Subpart U.

[7] The Authority notes that it has adopted and implemented a Conflicts of Interest and Business Ethics Policy (the ''Policy'') which acknowledges that Authority ''[r]epresentatives involved in procurement have a special responsibility to adhere to principles of fair competition in the purchase of products and services by selecting vendors based exclusively on standard commercial

considerations, such as quality, cost, availability, service and reputation, and not on the receipt of special favors.'' The Policy requires, among other things, transactions to be supported by appropriate documentation; no entry be made in our books and records that intentionally hides or disguises the nature of any transaction or of any of our liabilities, or misclassifies any transactions as to accounts or accounting periods; HISA Representatives comply with our system of internal controls; no cash or other assets be maintained for any purpose in any unrecorded or ''off-the-books'' fund; no HISA Representative may take or authorize any action that would cause our financial records or financial disclosures to fail to comply with generally accepted accounting principles or other applicable laws, rules, and regulations; and all HISA Representatives must cooperate fully with our finance staff, as well as our independent public accountants and legal counsel, and respond to their questions with candor and provide them with complete and accurate information to help ensure that our records are accurate and complete. Any HISA Representative who becomes aware of any departure from these standards has a responsibility to report his or her knowledge promptly to the CEO or Chair of the Board. A copy of the Policy is available to the public on the Authority's website.

[8] A modification of the Racetrack Safety Rule was approved by the Commission by Order dated June 7, 2024.

[9] In 2023, the HISA Accreditation Team completed accreditation visits at 21 racetracks.

[FR Doc. 2024–19468 Filed 8–28–24; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0035; Docket No. 2024–0053; Sequence No. 14]

Information Collection; Claims and Appeals

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on an extension concerning claims and appeals. DoD, GSA, and NASA invite comments on: whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through March 31, 2025. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by October 28, 2024.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 9000–0035, Claims and Appeals. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Zenaida Delgado, Procurement Analyst, at telephone 202–969–7207, or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0035, Claims and Appeals.

B. Need and Uses

This clearance covers the information that contractors must submit to comply with the following Federal Acquisition Regulation (FAR) requirements:

FAR 52.233–1, Disputes. This clause requires contractors to submit a claim in writing to the contracting officer for a written decision. For any claim exceeding $100,000, contractors must provide a certification that (1) the claim is made in good faith; (2) supporting data are accurate and complete; and (3) the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. Contractors may appeal the contracting officer's decision by submitting written appeals to the appropriate officials.

If the contractor refuses the Government's offer to use alternative dispute resolution (ADR), the contractor must inform the contracting officer, in writing, of the contractor's specific reasons for rejecting the offer.

The contracting officer will use the information to decide the disposition of the claim.

C. Annual Burden

Respondents: 4,500.

Total Annual Responses: 13,500.

Total Burden Hours: 13,500.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0035, Claims and Appeals.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2024–19442 Filed 8–28–24; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2023–0093]

Reporting of Pregnancy Success Rates From Assisted Reproductive Technology (ART) Programs; Proposed Modifications to Data Collection Fields and Data Validation Procedures; Final Notice

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: General notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) announces revised plans for data collection fields for reporting of pregnancy success rates from assisted reproductive technology (ART) programs and for data validation procedures. This reporting is required by the Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA).

This notice also responds to public comments received in response to CDC's 2023 request for comment in a **Federal Register** notice.

DATES: The requirements for the additional data fields and validation requirements will be implemented for reporting year 2025.

FOR FURTHER INFORMATION CONTACT: Mithi Sunderam, Division of Reproductive Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway NE, Mailstop S107–2, Atlanta, Georgia 30341. Telephone: 1–800–232–4636; email: *ARTinfo@cdc.gov.*

SUPPLEMENTARY INFORMATION: On November 28, 2023, CDC published a notice in **Federal Register** (88 FR 83131) requesting comments on a plan that proposed modifications to (1) data collection fields for reporting of pregnancy success rates from assisted reproductive technology (ART) programs; and (2) data validation procedures. Proposed modifications were the following:

(i) Remove the requirement for clinics to report dosage information for fertility medications including Clomiphene, Letrozole, and long-acting follicle stimulating hormone (FSH).

(ii) Remove the requirement for clinics to report information on research cycle study type.

(iii) Add the requirement for clinics to report date of cryopreservation for fresh embryos.

(iv) Not to pursue targeted validation of clinics and identification of major data discrepancies.

Public Comment Summary and Responses

CDC received seven public comments to the docket. One comment was outside the scope of the docket. Summaries of the six other comments and CDC's responses are provided below.

Proposed Modifications to Data Collection Fields

I. CDC proposal to remove the requirement for clinics to report dosage information for fertility medications, including Clomiphene, Letrozole, other oral medications, and long-acting follicle stimulating hormone: One commenter agreed, two commenters did not comment on this proposed change, and three commenters did not agree to the proposed change. Of those who did not agree, one commenter suggested that CDC should not stop collecting information on long-acting FSH medications as it may be the preferred approach to stimulating egg follicles among egg donors. Another commenter who disagreed suggested that many outcomes and side effects are dosage dependent, and CDC should not remove the requirement to report dosage. A third commenter who also disagreed suggested that follicle stimulating hormone medications have documented risks such as ovarian hyperstimulation and risks to both mother and infants such as ectopic pregnancy and birth defects.

Response: CDC thanks the commenters for providing these comments. CDC notes there may be variation in the type and dosage of medication used to stimulate follicular development, including the use of Clomiphene, Letrozole, and other oral medications. Established treatment protocols and dosage of medication may, on occasion, vary by patient and cycle type and may impact pregnancy success rates.

Based on these comments, CDC will not make proposed changes to remove the requirement for clinics to report dosage information for fertility medications, including Clomiphene, Letrozole, other oral medications described in **Federal Register** notice (88 FR 83131). However, CDC will stop collecting information on the use and dosage of long-acting FSH medications as they are not approved for use in the United States.

II. CDC proposal to remove the requirement for clinics to report information on research cycle study type: Among the six commenters, one commenter agreed, one commenter did not comment, and four commenters disagreed on this proposed change. Two of the commenters who disagreed stated that the low number of research cycles performed is not a justification for removing this reporting requirement. Two other commenters that disagreed noted the need for more regulation of research cycles as well as follow up of outcomes for patients and infants.

Response: CDC thanks the commenters for providing these comments. CDC proposed to remove the requirement for clinics to report information on the type of research cycle, not the requirement to report information on research cycles in general. CDC will continue to collect information on whether a research cycle was performed as described in the requirements for reporting of pregnancy success rates (80 FR 51811). Additional information on research cycle study type is not necessary.

Therefore, proposed changes to remove the requirement to report research cycle study type as described in **Federal Register** notice (88 FR 83131) will be made.

III. CDC proposal to add the requirement for clinics to report the date of cryopreservation for fresh embryos: Two commenters agreed, two commenters did not have any comments on this proposed change, one commenter suggested additional information should be provided on the need for this additional data collection, and one commenter had non-substantive responses to this CDC proposal. One commenter who agreed cautioned that the date of embryo cryopreservation could be captured only for the first time that an embryo was thawed but not if the embryo was refrozen again after additional culturing such as in some cases when performing pre-implantation genetic testing (PGT).

Response: CDC thanks the commenters for providing these comments. CDC agrees that under certain circumstances, frozen embryos may be thawed and refrozen for future use after additional days of culturing; however, this is rare. The date of first cryopreservation provides a good proxy of embryo stage even if the embryo was thawed and refrozen for future use. It will allow classification of embryo stage for frozen-embryo transfers and improve the reporting of factors that impact ART success rates.

Based on these comments, CDC will add the date of fresh embryo cryopreservation to the reporting requirements described in **Federal Register** notice (88 FR 83131).

Proposed Modifications to Data Validation Procedures

CDC proposed not to pursue implementation of a plan to conduct targeted validation of clinics and identification of major data discrepancies as described in the **Federal Register** published on November 28, 2023, (88 FR 83131) and to maintain validation procedures described in **Federal Register** notice published on August 26, 2015 (80 FR 51811). One commenter agreed with all changes proposed by CDC but did not have any specific comments regarding the modifications to data validation procedures. Five commenters disagreed with this proposed change stating that the validation process was necessary for data accuracy. Of those who disagreed, one commenter noted that the proposed changes would weaken the validation process and that patients deserved to get accurate data from clinics. One commenter who disagreed noted that validation was necessary to ensure clinics are not inflating success rates. One commenter who disagreed noted

that data discrepancies could be misleading to the public. One commenter suggested additional fields for targeted validation.

Response: CDC thanks the commenters for providing these comments and notes their feedback and suggestions. CDC strives to provide accurate data and maintains multiple mechanisms to ensure data accuracy: conducting data checks for logical errors and inconsistencies during the data entry stage, verification of data accuracy by clinics' medical directors, and additional data checks for logical errors and internal inconsistencies after submission. If any errors or inconsistencies are identified during these stages, CDC's contractor contacts the clinics and corrects the data.

In addition, CDC currently conducts annual site visits by selecting 5–10% of all reporting clinics and about 70–80 cycles per clinic for data validation as described in **Federal Register** notice (80 FR 51811). This data validation process involves comparing information for key variables from a patient's medical record with the data submitted to the National ART Surveillance System (NASS), the CDC data reporting system for ART procedures. This information is used to calculate discrepancy rates for these variables. Aggregate findings for validated data fields from all ART programs participating in validation are published annually. In addition, CDC will continue removing a clinic's reported success rates from annual ART reports if the clinic was selected for annual ART data validation but declined to participate, as described in the changes to data validation process published in **Federal Register** notice (86 FR 20496).

The targeted data validation and major discrepancy analysis were additional mechanisms that CDC was considering identifying any systematic problems that could cause data collection to be inconsistent or incomplete. The commenters' suggestions will be taken under consideration as CDC works toward further refining its data validation process while balancing potential gains in accuracy with additional burden to clinics. The details of any modifications to data validation will be published in a separate **Federal Register** notice before implementation.

At this time, changes proposed to data validation procedures described in **Federal Register** notice published on November 28, 2023, (88 FR 83131) will be made. Please see the revised Appendix below for the new requirements.

Appendix—Notice for Reporting of Pregnancy Success Rates From Assisted Reproductive Technology (ART) Programs—Modifications to Data Collection Fields and Data Validation Procedures

The purpose of this notice published August 29, 2024 is to announce revised data collection requirements and data validation procedures. This data collection is approved under Office of Management and Budget Control Number 0920–0556, expiration date: 12/31/2024. Effective for reporting year 2025, CDC is implementing the following changes to its data collection and data validation procedures.

Section III. What To Report

F. Stimulation and Retrieval

Deletion (if Medication Containing FSH Used)

CDC will remove the requirement for clinics to report dosage information for long-acting FSH as described in **Federal Register** notice 88 FR 83131.

G. Laboratory Information

Deletion (if Cycle was a Research Cycle)

CDC will remove the requirement for clinics to report the research cycle study type. This deletion will apply to all data fields for research study types: Device study, Protocol study, Pharmaceutical study, Laboratory technique, and Other research, as described in **Federal Register** notice 88 FR 83131.

H. Transfer Information

Addition (if Frozen Embryos Were Transferred)

CDC will add the requirement for clinics to report date of fresh embryo cryopreservation for all frozen embryo transfer procedures as described in **Federal Register** notice 88 FR 83131.

Data Validation

CDC will not conduct targeted validation of clinics and identification of major discrepancies during data validation, as described in **Federal Register** notice 83 FR 25353. CDC will continue conducting data validation using stratified random sampling of reporting clinics to assess discrepancy rates for key variables that are generalizable for all reporting clinics and provide feedback to clinics to improve the reporting of data used to report success rates as described in **Federal Register** notice 80 FR 51811. In addition, CDC will continue removing a clinic's reported success rates from annual ART reports if the clinic was selected for annual ART data validation but declined to participate, as described in **Federal Register** notice 86 FR 20496.

Noah Aleshire,

Chief Regulatory Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024–19392 Filed 8–28–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–18F5 and CMS–287–22]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by September 30, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement with change of a currently approved collection; *Title of Information Collection:* Application for Enrollment in Medicare Part A internet Claim (iClaim) Application Screen Modernized Claims System and Consolidated Claim Experience Screens; *Use:* The Centers for Medicare and Medicaid Services (CMS) Form ''Application for Hospital Insurance'' supports sections 1818 and 1818A of the Social Security Act (the Act) and corresponding regulations at 42 CFR 406.6 and 406.7.

The CMS–18–F5 is used to establish entitlement to Part A and enrollment in Part B for claimants who must file an application. The application follows the questions and requirements used by SSA on the electronic application. This is done not only for consistency purposes but because certain requirements under titles II and XVIII of the act must be met in order to qualify for Part A and Part B; including insured status, relationship and residency. The form is owned by CMS but is not utilized by CMS staff. SSA uses the form to collect information and make Part A and Part B entitlement determinations on behalf of CMS. *Form Number:* CMS–18F5 (OMB control number: 0938–0251); *Frequency:* Once; *Affected Public:* Individuals and Households; *Number of Respondents:* 1,042,263; *Total Annual Responses:* 1,042,263; *Total Annual Hours:* 260,566. (For policy questions regarding this collection contact Carla Patterson at 410–786–8911 or *Carla.Patterson@cms.hhs.gov*).

2. *Type of Information Collection Request:* Extension without change of a previously approved collection; *Title of Information Collection:* Home Office Cost Statement; *Use:* A home office/chain organization (HO/CO) submits the home office cost statement annually as the documentary support required for a provider that is a member of the HO/CO to be reimbursed for HO/CO costs claimed in the provider's cost report (see 42 CFR 413.24(f)(5)(i)(E)(1) and (2)).

The relationship of the HO/CO is that of a related organization to a provider (see 42 CFR 413.17). A HO/CO usually furnishes central management and administrative services, *e.g.,* centralized accounting, purchasing, personnel services, management direction and control, and other services. To the extent that the HO/CO furnishes services related to patient care to a provider, the reasonable costs of such services are included in the provider's cost report and are reimbursable as part of the provider's costs.

CMS requires the form to determine a HO/CO's reasonable cost incurred in furnishing management and administrative services to Medicare providers, each of which includes the costs in their cost report for reimbursement. A Medicare-certified provider includes costs allocated from the home office cost statement in the provider's costs used by CMS for rate setting; payment refinement activities, including developing a market basket; and Medicare Trust Fund projections; and to support program operations. Additionally, the Medicare Payment Advisory Commission (MedPAC) uses the cost report data to calculate Medicare margins (a measure of the relationship between Medicare's payments and providers' Medicare costs) and analyze data to formulate Medicare Program recommendations to Congress. *Form Number:* CMS–287–22 (OMB control number: 0938–0202); *Frequency:* Yearly; *Affected Public:* Private Sector; Business or other for-profits, Not-for-profit institutions; *Number of Respondents:* 1,646; *Total Annual Responses:* 1,646; *Total Annual Hours:* 767,036. (For policy questions regarding this collection contact Gail S. Duncan at (410) 786–7278.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–19404 Filed 8–28–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Announcing the Intent To Award a Single-Source Supplement for the Strengthening the Direct Care Workforce: A Technical Assistance and Capacity Building Initiative

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) announces the intent to award a single-source supplement to the current cooperative agreement held by the National Council on Aging for the ''Strengthening the Direct Care Workforce: A Technical Assistance and Capacity Building Initiative''. The administrative supplement for FY 2024 will be in the amount of $1,787,524 bringing the total award for FY 2024 to $3,087,207. The supplement will provide sufficient resources to enable the grantee and their partners to increase funding for technical assistance (TA) to state aging and disability partnerships to collaborate with workforce entities to strengthen the Direct Care Workforce. The funding will enable the grantee to support additional states, including at more robust levels than originally planned.

FOR FURTHER INFORMATION CONTACT: For further information or comments regarding this program supplement, contact Caroline Ryan, U.S. Department of Health and Human Services, Administration for Community Living, telephone (202) 795–7429; email *caroline.ryan@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Through this initiative, ACL is advancing the capacity to recruit, train and retain a high-quality, competent, and effective direct care workforce of professionals capable of meeting the growing needs that older adults and people with disabilities have for such supports. The purpose of this program is to catalyze change at a systems level that will address the insufficient supply of trained DCWs, promote promising practices at all levels of the service

system and improve data collection to enable a full understanding of the workforce issue.

The intended outcomes of the initiative are as follows:

1. Increase the availability and visibility of tools and resources to attract, train and retain the direct care workforce in quality jobs where they earn livable wages and have voice in their working environment, and have access to benefits and opportunities for advancement.

2. Increase the number of states that develop and sustain collaborations across state systems and workforce agencies to implement strategies that will improve the recruitment, retention, and advancement of high quality DCW jobs.

Program Name: Strengthening the Direct Care Workforce: A Technical Assistance and Capacity Building Initiative.

Recipient: The National Council on Aging.

Period of Performance: The supplement award will be issued for the third year of the five-year project period of September 30, 2022 through September 29, 2027.

Total Award Amount: $3,087,207 in FY 2024.

Award Type: Cooperative Agreement.

Statutory Authority: Section 411(13) of the Older Americans Act, section 161 (2) of the Developmental Disabilities Assistance and Bill of Rights Act, and section 21 program of the Rehabilitation Act of 1973.

Basis for Award: The National Council on Aging is currently funded to carry out the objectives of the project entitled *Strengthening the Direct Care Workforce: A Technical Assistance and Capacity Building Initiative* for the project period of September 30, 2022 through September 29, 2027. This supplement will enable the grantee to carry their work even further, providing technical assistance to more state partnerships. The additional funding will also expand grantee's capability to produce issue briefs, case studies, and other materials to disseminate lessons learned and best practices via the Direct Care Workforce Strategies Center website. The NCOA is uniquely positioned to complete the work called for under this cooperative agreement. NCOA's partners on this project include the University of Minnesota Institute on Community Integration, National Association of Councils on Developmental Disabilities, Advancing States, PHI, Lincoln University Paula J. Carter Center on Minority Health and Aging, National Association of Medicaid Directors, National Council on Independent Living, Center for Innovation, National Alliance for Caregiving, National Association of State Directors of Developmental Disabilities Services, and Social Policy Research Associates (SPR). The grantee, and all partners, will work in close coordination with one another and ACL on those tasks and activities to which they have committed to ensure realization of project goals and objectives.

ACL believes it is in the best interest of the Federal Government to supplement the current grantee's existing project. Establishing an entirely new grant project at this time would be potentially disruptive to the current work already well under way. Further, it could create unintended duplication of effort and missed opportunities for greater coordination. Additionally, if this supplement is not provided, the project would be unable to expand its current technical assistance and training efforts to reach more state partnerships across aging, disability and workforce stakeholders to work together to strengthen the direct care workforce.

Dated: August 24, 2024.

Alison Barkoff,

Principal Deputy Administrator for the Administration for Community Living, performing the delegable duties of the Administrator and the Assistant Secretary for Aging.

[FR Doc. 2024–19418 Filed 8–28–24; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–D–2873]

Voluntary Malfunction Summary Reporting Program for Manufacturers; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Voluntary Malfunction Summary Reporting (VMSR) Program for Manufacturers.'' This final guidance document is intended to help manufacturers better understand and use the VMSR Program. This guidance describes and clarifies several aspects of the VMSR Program, including the FDA's approach to determining the eligibility of product codes for the program and the conditions for submitting medical device reports (MDRs) for device malfunctions in summary format under the program.

DATES: The announcement of the guidance is published in the **Federal Register** on August 29, 2024.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (*see* ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–D–2873 for ''Voluntary Malfunction Summary Reporting (VMSR) Program for Manufacturers.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at

https://www.regulations.gov or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. *See* the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Voluntary Malfunction Summary Reporting (VMSR) Program for Manufacturers'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Michelle Rios, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1116, Silver Spring, MD 20993–0002, 301–796–6107; or James Myers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Each year, FDA receives over 2 million MDRs of suspected device-related deaths, serious injuries, and malfunctions. The MDR Program is one of the postmarket surveillance tools that FDA uses to monitor device performance, detect potential device-related safety issues, and contribute to benefit-risk assessments. Malfunction reports represent most of the MDRs received by FDA on an annual basis. As part of FDA's postmarket surveillance for devices, the Agency reviews the MDRs submitted by both mandatory and voluntary reporters.

FDA has determined that for many devices, it is appropriate to permit manufacturers to submit malfunction summary reports on a quarterly basis, for certain malfunctions related to devices with certain product codes, instead of individual, 30-day malfunction reports. FDA is issuing this final guidance document to help manufacturers better understand and use the VMSR Program. This guidance describes and clarifies several aspects of the VMSR Program, including FDA's approach to determining the eligibility of product codes for the program and the conditions for submitting MDRs for device malfunctions in summary format under the program. The program began in 2018 when FDA issued a notification in the **Federal Register** of an order granting an alternative under 21 CFR 803.19 that permits manufacturers of devices in eligible product codes to report certain device malfunction MDRs in summary form on a quarterly basis, subject to the conditions of the alternative (83 FR 40973). FDA's VMSR Program is intended to yield benefits for FDA, the public, and manufacturers, such as increasing transparency for the public, helping FDA to process certain malfunction reports more efficiently, allowing both FDA and the public to identify malfunction trends more readily, and reducing the burden on manufacturers.

A notice of availability of the draft guidance appeared in the **Federal Register** of December 9, 2022 (87 FR 75634). FDA considered comments received and revised the guidance as appropriate in response to the comments. Changes from the draft to the final guidance include that the final guidance provides further clarification regarding how FDA determines the eligibility of a product code for inclusion in the VMSR Program and the conditions for submitting medical device reports for device malfunctions in summary format under the program. The final guidance also provides additional examples to facilitate submission utilizing Form FDA 3500A. It also clarifies how manufacturers may opt out of the VMSR program and provides links to an updated website to find product codes that are eligible for inclusion in the voluntary VMSR program.

Published elsewhere in this edition of the **Federal Register,** FDA is issuing a notification announcing a minor, technical modification to the VMSR Program alternative granted under 21 CFR 803.19, to align with the most current version of Form FDA 3500A and with current adverse event codes. This guidance is consistent with that modification.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on Voluntary Malfunction Summary Reporting (VMSR) Program for Manufacturers. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics.* Persons unable to download an electronic copy of ''Voluntary

Malfunction Summary Reporting (VMSR) Program for Manufacturers'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00021007 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
803	Medical Device Reporting	0910–0437
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation	0910–0073
806	Medical Devices; Reports of Corrections and Removals	0910–0359
Form FDA 3500A	MedWatch: Adverse Event and Product Experience Reporting System	0910–0291

Dated: August 23, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–19413 Filed 8–28–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Minority Health and Health Disparities Special Emphasis Panel, August 28, 2024, 10 a.m. to August 29, 2024, 6 p.m., National Institutes of Health, NIMHD, DEM II, Suite 800, 6707 Democracy Boulevard, Virtual Meeting, Bethesda, MD, 20892 which was published in the **Federal Register** on July 22, 2024, FR Doc. No. 2024–16018, 89 FR 59124.

This notice is being amended to change the meeting dates from August 28–29, 2024 to August 28, 2024, 10:00 a.m. to 06:00 p.m. The meeting will be held as a virtual meeting and is closed to the public.

Dated: August 23, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–19402 Filed 8–28–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Training in Veterinary and Comparative Medicine.

Date: October 3, 2024.

Time: 10:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joonil Seog, SCD Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–9791, *joonil.seog@nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Maximizing Investigators' Research Award—F Study Section.

Date: October 7–8, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Paul Chadwick, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3586, *chadwickbp@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 23, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–19405 Filed 8–28–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Nursing Research Special Emphasis Panel; Institutional Training Grant Review.

Date: September 27, 2024.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Nursing Research, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Weiqun Li, MD, Chief, Office of Scientific Review, National Institute of Nursing Research, National Institutes of Health, 6701 Democracy Boulevard, Room 729, Bethesda, MD 20892, (301) 594–5966, *wli@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: August 23, 2024

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–19425 Filed 8–28–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; Team-Based Design in BME Education (R25) Review.

Date: November 4, 2024.

Time: 9:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Democracy II, Suite 920, 6707 Democracy Blvd., Bethesda, MD 20817, (Virtual Meeting).

Contact Person: Yoon-Young Jang, MD, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892, (301) 451–3397, *yoonyoung.jang@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health.)

Dated: August 23, 2024.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–19426 Filed 8–28–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0743]

National Navigation Safety Advisory Committee; Vacancies

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice; request for applications.

SUMMARY: The U.S. Coast Guard is accepting applications to fill nineteen (19) vacancies on the National Navigation Safety Advisory Committee (Committee). This Committee advises the Secretary of Homeland Security via the Commandant of the U.S. Coast Guard on matters relating to maritime collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment; routing measures; marine information; and aids to navigation systems. Individuals currently holding these appointments will need to re-apply if they wish to continue as Committee members.

DATES: Complete applications must reach the U.S. Coast Guard on or before September 30, 2024.

ADDRESSES: Applications must include (a) a cover letter expressing interest in an appointment to the National Navigation Safety Advisory Committee and detailing their qualifications to serve as a representative in one or more of the six identified membership categories, (b) a resume detailing the applicant's relevant experience for the membership categories applied for, and (c) a brief 2–3 paragraph biography written in third-person perspective. Applications should be submitted via email with subject line ''Application for NNAVSAC'' to *smb-basencr-cgnav-nnavsac@uscg.mil.*

FOR FURTHER INFORMATION CONTACT: Ms. Danielle Gibb, Alternate Designated Federal Officer of the National Navigation Safety Advisory Committee; telephone 206–831–0261 or email at *smb-basencr-cgnav-nnavsac@uscg.mil.*

SUPPLEMENTARY INFORMATION: The National Navigation Safety Advisory Committee is a Federal advisory committee. The Committee was authorized on December 4, 2018, by section 601 of the Frank LoBiondo Coast Guard Authorization Act of 2018 (Pub. L. 115–282, 132 Stat. 4192), and is codified in 46 U.S.C. 15107. The Committee operates under the provisions of the Federal Advisory Committee Act, and 46 U.S.C. 15109.

The Committee is required to meet at least once a year in accordance with 46 U.S.C. 15109(a). We expect the Committee will hold meetings twice per year, which may be held in person, virtual, or hybrid of in person and virtual depending on the needs of the Committee to allow maximum flexibility. The meetings are held at locations across the country selected by the U.S. Coast Guard.

Under provisions in 46 U.S.C. 15109(f)(6), if you are appointed as a member of the Committee, your membership term will expire on December 31st of the third full year after the effective date of your appointment. Under provisions 46 U.S.C. 15109(f)(4) the Secretary of Homeland Security may require an individual to have passed an appropriate security background examination before appointment to the Committee.

In this solicitation for Committee members, we will consider applications for nineteen (19) to be selected from the following membership categories:

a. Commercial vessel owners or operators
b. Professional mariners
c. Recreational boaters
d. The recreational boating industry
e. State agencies responsible for vessel or port safety
f. The Maritime Law Association

In accordance with 46 U.S.C. 15107(c)(4), the Secretary of Homeland Security shall, based on the needs of the U.S. Coast Guard, determine the number of members of the Committee who represent each entity specified in each category and should not be construed to require an equal distribution of members representing each entity.

Each member of the Committee must have expertise, knowledge, and experience on matters related to the function of the Committee which is to advise the Secretary of Homeland Security on matters relating to maritime collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment, routing measures, marine information, and aids to navigations systems.

The members who fill the nineteen (19) positions described above will be appointed to represent the interest of their respective groups and viewpoints and are not Special Government Employees as defined in 18 U.S.C. 202(a).

All members serve at their own expense and receive no salary or other compensation from the Federal Government. The only compensation the members may receive is for travel

expenses, including per diem in lieu of subsistence, and actual reasonable expenses incurred in the performance of their direct duties for the Committee in accordance with Federal Travel Regulations.

If you are appointed as a member of the Committee, you will be required to sign a Non-Disclosure Agreement and a Gratuitous Services Agreement.

In order for the Department to fully leverage broad-ranging experience and education, the National Navigation Safety Advisory Committee must be diverse with regard to the stakeholders represented. The Department is committed to pursuing opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the Nation's people.

If you are interested in applying to become a member of the Committee, email your application to *smb-basencr-cgnav-nnavsac@uscg.mil* as provided in the **ADDRESSES** section of this notice.

The U.S. Coast Guard will not consider incomplete or late applications.

Privacy Act Statement

Purpose: To obtain qualified applicants to fill nineteen (19) vacancies on the National Navigation Safety Advisory Committee. When you apply for appointment to the DHS' National Navigation Safety Advisory Committee, DHS collects your name, contact information, and any other personal information that you submit in conjunction with your application. DHS will use this information to evaluate your candidacy for Committee membership. If you are chosen to serve as a Committee member, your name will appear in publicly available Committee documents, membership lists, and Committee reports.

Authorities: 14 U.S.C. 504; 46 U.S.C. 15107 and 15109; 18 U.S.C. 202(a), and Department of Homeland Security Delegation No. 00915.

Routine Uses: Authorized U.S. Coast Guard personnel will use this information to consider and obtain qualified candidates to serve on the Committee. Any external disclosures of information within this record will be made in accordance with DHS/ALL–009, Department of Homeland Security Advisory Committee (73 FR 57642, October 3, 2008).

Consequences of Failure to Provide Information: Furnishing this information is voluntary. However, failure to furnish the requested information may result in your application not being considered for the Committee.

Dated: August 26, 2024.

Michael D. Emerson,

Director of Marine Transportation Systems.

[FR Doc. 2024–19458 Filed 8–28–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2024–0288]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0030

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0030, Oil and Hazardous Materials Transfer Materials; without change.

Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before October 28, 2024.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2024–0288] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, fax 202–372–8405, or email *hqs-dg-m-cg-61-pii@uscg.mil* for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, USCG–2024–0288, and must be received by October 28, 2024.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. We review all comments received, but we may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. Comments we post to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Oil and Hazardous Materials Transfer Procedures.

OMB Control Number: 1625–0030.

Summary: Vessels with a capacity of 250 barrels or more of oil or hazardous materials must develop and maintain transfer procedures. Transfer procedures provide basic safety information for operating transfer systems with the goal of pollution prevention.

Need: 33 U.S.C. 1231 authorizes the Coast Guard to prescribe regulations related to the prevention of pollution. 33 CFR part 155 prescribes pollution prevention regulations including those related to transfer procedures.

Forms: Not applicable.

Respondents: Operators of certain vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 151 hours to 149 hours a year, due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: August 23, 2024.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2024–19377 Filed 8–28–24; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2024–0021]

Commercial Customs Operations Advisory Committee

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS).

ACTION: Committee management; notice of open Federal advisory committee meeting.

SUMMARY: The Commercial Customs Operations Advisory Committee (COAC) will hold its quarterly meeting on Wednesday, September 18, 2024, in Washington, DC. The meeting will be open for the public to attend in-person or via webinar. The in-person capacity is limited to 50 persons for public attendees.

DATES: The COAC will meet on Wednesday, September 18, 2024, from 1:00 p.m. to 5:00 p.m. Eastern Daylight Time (EDT). Please note the meeting may close early if the committee has completed its business. Registration to attend in person and comments must be submitted no later than September 13, 2024.

ADDRESSES: The meeting will be held at the Office of Training and Development, 1717 H Street NW, Washington, DC, in Classroom 7300A. For virtual participants, the webinar information will be posted by 5 p.m. EDT on September 17, 2024, at *https://www.cbp.gov/trade/stakeholder-engagement/coac.* For information or to request special assistance for the meeting, contact Mrs. Latoria Martin, Office of Trade Relations, U.S. Customs and Border Protection, at (202) 344–1440, as soon as possible.

Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search for Docket Number USCBP–2024–0021. To submit a comment, click the ''Comment'' button located on the top-left hand side of the docket page.
- *Email: tradeevents@cbp.dhs.gov.* Include Docket Number USCBP–2024–0021 in the subject line of the message.

Comments must be submitted in writing no later than September 13, 2024, and must be identified by Docket No. USCBP–2024–0021. All submissions received must also include the words ''Department of Homeland Security.'' All comments received will be posted without change to *https://www.cbp.gov/trade/stakeholder-engagement/coac/coac-public-meetings* and *www.regulations.gov.* Therefore, please refrain from including any personal information you do not wish to be posted. You may wish to view the Privacy and Security Notice, which is available via a link on *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Latoria Martin, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.5A, Washington, DC 20229, (202) 344–1440; or Ms. Felicia M. Pullam, Designated Federal Officer, at (202) 344–1440 or via email at *tradeevents@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the authority of the Federal Advisory Committee Act, title 5 U.S.C. ch. 10. The Commercial Customs Operations Advisory Committee (COAC) provides advice to the Secretary of the Department of Homeland Security, the Secretary of the Department of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within the Department of Homeland Security and the Department of the Treasury.

Pre-Registration: Meeting participants may attend either in person or via webinar. All participants who plan to participate in person must register using the method indicated below:

For members of the public who plan to participate in person, please register online at *https://cbptradeevents.certain.com/profile/17899* by 5:00 p.m. EDT on September 13, 2024. For members of the public who are pre-registered to attend the meeting in person and later need to cancel, please do so by 5:00 p.m. EDT on September 13, 2024, utilizing the following link: *https://cbptradeevents.certain.com/profile/17899.*

For members of the public who plan to participate via webinar, the webinar information will be posted by 5:00 p.m. EDT on September 17, 2024, at *https://www.cbp.gov/trade/stakeholder-engagement/coac.* Registration is not required to participate virtually.

The COAC is committed to ensuring all participants have equal access regardless of disability status. If you require a reasonable accommodation due to a disability to fully participate, please contact Mrs. Latoria Martin at (202) 344–1440 as soon as possible.

Please feel free to share this information with other interested members of your organization or association.

To facilitate public participation, we are inviting public comment on the issues the committee will consider prior to the formulation of recommendations as listed in the Agenda section below.

There will be a public comment period after each subcommittee update during the meeting on September 18, 2024. Speakers are requested to limit their comments to two minutes or less to facilitate greater participation. Please note the public comment period for speakers may end before the time indicated on the schedule that is posted on the CBP web page: *http://www.cbp.gov/trade/stakeholder-engagement/coac.*

Agenda

The COAC will hear from the current subcommittees on the topics listed below:

1. The Intelligent Enforcement Subcommittee will provide updates on the work completed and topics discussed in its working groups as well as present proposed recommendations for the COAC's consideration. The Antidumping/Countervailing Duty (AD/CVD) Working Group will provide updates regarding its work and discussions on importer compliance with AD/CVD requirements. The Intellectual Property Rights (IPR) Process Modernization Working Group anticipates providing updates concerning progress associated with its recent recommendations regarding the Trade Seminars Mailbox and enhancements to the CBP Petitions Portal specific to IPR enforcement. The Forced Labor Working Group (FLWG) will provide updates on continued discussions regarding trade outreach, clarification of requirements, and previous recommendations.

2. The Next Generation Facilitation Subcommittee will provide updates on all its existing working groups. The Broker Modernization Working Group (BMWG) plans to present proposed recommendations for the COAC's consideration which aim to improve the end user experience and re-envision the Customs Broker Licensing Exam (CBLE). The Modernized Entry Processes Working Group (MEPWG) will report on the work undertaken regarding Cyber Incident Guidance for Brokers. The Passenger Air Operations (PAO) Working Group has continued to meet to discuss CBP's feedback on past recommendations, landing rights issues, and to plan future goals and/or work for the group. The remaining working groups, the Automated Commercial Environment (ACE) 2.0 Working Group and the Customs Interagency Industry Working Group (CIIWG), were not active this past quarter but will provide a report on topics that each working group will focus on in the coming quarter.

3. The Secure Trade Lanes Subcommittee will provide updates on its seven active working groups: the Centers Working Group, the Cross-Border Recognition Working Group, the De Minimis Working Group, the Export Modernization Working Group, the FTZ Warehouse Working Group, the Pipeline Working Group, and the Trade Partnership and Engagement Working Group. The Centers Working Group created three sub-groups to focus on specific areas of concerns for the trade community: the Operations Sub-Group, the Structure Sub-Group, and the Communications Sub-Group. The Operations Sub-Group will evaluate the internal structure and operations of the Centers of Excellence and Expertise (Centers) and their interactions with the ports, and with the trade communities in the areas of fines, penalties, forfeitures, drawback, and broker management. The Structure Sub-Group will evaluate the number of Centers, the branches within the Centers, and workload equity amongst the Centers. This includes consideration of potential structural changes to help with the Centers' expanded responsibility in admissibility reviews, Uyghur Forced Labor Prevention Act (UFLPA), and Enforce and Protect Act (EAPA) investigations. This sub-group will also consider how information within Customs Trade Partnership Against Terrorism (CTPAT) may be better leveraged to help the Centers with these reviews. The Communications Sub-Group will focus on IT/ACE solutions, including web pages to facilitate communications for CBP internally and externally with the trade. The Cross-Border Recognition Working Group has continued to discuss best practices at ports of entry on the southern border that facilitate legitimate trade. The De Minimis Working Group has continued discussions on the revised timeframe for submitting Type 86 entries and on potential compliance measurements for de minimis shipments that CBP can communicate to the trade community. The Export Modernization Working Group has continued its work on the Electronic Export Manifest Pilot Program and the effects of progressive filing by the shipper to continuously update export information on successive dates, rather than on a specific date. The Export Modernization Working Group is also working on recommendations regarding the CBP Experience (CBPX) to present to the COAC for consideration. The Drawback Task Force, within the Export Modernization Working Group, has continued discussions around COAC-approved recommendations that are in the process of being implemented from last quarter; is conducting an analysis of program statistics in the areas of streamlining privilege application questions, compliance issues, de minimis amount for drawback claims; and is examining areas to maximize resources. The FTZ/Warehouse Working Group continues to review 19 CFR part 146, expanding the CTPAT program, and modernizing ACE functionality for FTZs, and it anticipates presenting proposed recommendations for the COAC's consideration at the September public meeting. The Pipeline Working Group has continued discussing the most appropriate commodities for and potential users of Distributed Ledger Technology to engage in the contemplated pilot for tracking pipeline-borne goods. The Trade Partnership and Engagement Working Group has continued its work on the elements of the CTPAT security program and the validation process.

Meeting materials will be available on September 9, 2024, at: *http://www.cbp.gov/trade/stakeholder-engagement/coac/coac-public-meetings.*

Felicia M. Pullam,

Executive Director, Office of Trade Relations.

[FR Doc. 2024–19427 Filed 8–28–24; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2024–0002; Internal Agency Docket No. FEMA–B–2458]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before November 27, 2024.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for

each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2458, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Assistant Administrator (Acting) for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Ontario County, New York (All Jurisdictions) Project: 19–02–0022S Preliminary Date: July 14, 2023	
City of Canandaigua	City Hall, 2 North Main Street, Canandaigua, NY 14424.
City of Geneva	City Hall, 47 Castle Street, Geneva, NY 14456.
Town of Bristol	Bristol Town Hall, 6740 County Road 32, Canandaigua, NY 14424.
Town of Canadice	Canadice Town Hall, 5949 County Road 37, Springwater, NY 14560.
Town of Canandaigua	Town Hall, 5440 Route 5 & 20 West, Canandaigua, NY 14424.
Town of East Bloomfield	East Bloomfield Town Hall, 99 Main Street, Bloomfield, NY 14469.
Town of Farmington	Town Hall, 1000 County Road 8, Farmington, NY 14425.
Town of Geneva	Town Hall, 3750 County Road 6, Geneva, NY 14456.
Town of Gorham	Town Hall, 4736 South Street, Gorham, NY 14461.
Town of Hopewell	Hopewell Town Hall, 2716 County Road 47, Canandaigua, NY 14424.
Town of Manchester	Manchester Town Hall, 1272 County Road 7, Clifton Springs, NY 14432.
Town of Naples	Town Hall, 106 South Main Street, Naples, NY 14512.
Town of Phelps	Town Hall, 79 Main Street, Phelps, NY 14532.
Town of Richmond	Richmond Town Hall, 8690 Main Street, Honeoye, NY 14471.
Town of Seneca	Seneca Town Hall, 3675 Flint Road, Stanley, NY 14561.
Town of South Bristol	South Bristol Town Hall, 6500 West Gannett Hill Road, Naples, NY 14512.
Town of Victor	Town Hall, 85 East Main Street, Victor, NY 14564.
Town of West Bloomfield	Town Hall, 9097 Daylight Drive, West Bloomfield, NY 14585.
Village of Clifton Springs	Village Hall, 1 West Main Street, Clifton Springs, NY 14432.
Village of Manchester	Village Office, 8 Clifton Street, Manchester, NY 14504.
Village of Naples	Village Hall, 106 South Main Street, Naples, NY 14512.
Village of Phelps	Village Clerk's Office, 8 Banta Street, Suite 150, Phelps, NY 14532.
Village of Rushville	Village Hall, 1 South Main Street, Rushville, NY 14544.
Village of Shortsville	Village Hall, 6 East Main Street, Shortsville, NY 14548.
Village of Victor	Village Hall, 60 East Main Street, Victor, NY 14564.

[FR Doc. 2024–19434 Filed 8–28–24; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2004–19605]

Hazardous Materials Endorsement (HME) Threat Assessment Program Security Threat Assessment Fees for Non-Agent States

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) administers the Hazardous Materials Endorsement (HME) vetting program. TSA conducts a security threat assessment (STA) of HME applicants in accordance with statutory requirements and collects fees to recover TSA's costs to conduct the STA and administer the program. Some States have elected to collect the information and fees from the applicant directly, and transmit such information and fees to TSA for the STA. In this notice, TSA announces that the fee to conduct the STA for these States will be increased to fully recover the costs to administer the program.

DATES: The fee changes in this notice are effective December 2, 2024.

FOR FURTHER INFORMATION CONTACT: Julie Labra, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6047; 240–568–5698; or email at *HME.Question@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION:

You can find an electronic copy of this rulemaking using the internet by accessing the Government Publishing Office's web page at *https://www.govinfo.gov/app/collection/FR/* to view the daily published **Federal Register** edition or accessing the Office of the Federal Register's web page at *https://www.federalregister.gov.* Copies are also available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section, or by email at *HME.Question@tsa.dhs.gov.*

Abbreviations and Terms Used in This Document

CDL—Commercial Driver's License
HME—Hazardous Materials Endorsement
STA—Security Threat Assessment
TWIC—Transportation Workers Identification Credential

I. HME Program

Background

Under 49 U.S.C. 5103a, a State is prohibited from issuing or renewing an HME for a commercial driver's license (CDL) unless TSA has first determined that the driver does not pose a security threat. To make this security determination, TSA conducts an STA by comparing applicant biographic and biometric information to criminal, immigration, and security databases, and adjudicating any derogatory information against the standards set forth in 49 CFR part 1572. If TSA determines the individual meets the STA standards, TSA notifies the State, and the State may issue the HME. TSA is required to recover its vetting program costs through user fees, in accordance with 6 U.S.C. 469, and consequently, TSA collects fees from applicants during the STA process.

Under TSA's regulations, States may collect and transmit the fingerprints and applicant information from drivers who apply to obtain or renew an HME; or elect to use TSA's agent to collect and transmit the information and fees for the STA.[1] States that use TSA's agent to collect and transmit information and fees are known as *Agent States.* Current Agent States include 42 states and the District of Columbia. Applicants in these Agent States pay a fee to cover the cost of (1) collecting and transmitting the information and fees to TSA; (2) TSA's completion of the STA and any related redress; and, (3) the Federal Bureau of Investigation fee to process the criminal check.[2]

States that choose to collect applicant information and submit it to TSA are known as *Non-Agent States.* There are currently eight Non-Agent States.[3] Applicants in these States provide their information and TSA's fees to the State Department of Motor Vehicles (DMV), and the State transmits the information and fees to TSA. Applicants in these Non-Agent States pay the fee for TSA to conduct the STA and the FBI fee to process the criminal history checks. Non-Agent States also may charge applicants a State fee for its costs to collect and transmit information, and TSA has no authority to establish, determine, or limit the amount of that fee.

HME Fee Changes for Non-Agent States

In this notice, TSA is announcing that the fee to Non-Agent States will be increased to recover TSA's costs to process these applications. Under TSA's regulations, TSA may revise fees for the STA by publishing a notice in the **Federal Register**.[4]

TSA reviews the costs associated with conducting STAs at least once every 2 years.[5] Upon review, TSA will adjust the fee if the agency finds that the fees collected exceed the total cost to provide the services or do not cover the total costs for services. Fees are influenced by several factors, including changes in contractual services, personnel costs, and operations and maintenance costs.

In 2022, TSA analyzed the costs associated with the HME Non-Agent State STAs and found that the current fees to process these applications do not cover TSA's costs. The fees TSA charges the Non-Agent States have not been revised since 2005, and many recent information technology and customer service improvements, and increased contract costs have not been accounted for in the fees. Also, the Non-Agent State submissions require TSA to expend additional program oversight, case management, and manual intervention to ensure that the biographic information is attached to the correct biometric information. Consequently, TSA has had to hire more staff to accurately process these submissions.

Based on this analysis, TSA determined that the fees for TSA's processing the Non-Agent State STAs need to be increased from $34.00 per application to $57.25 per application for standard STAs in order to comply with 6 U.S.C. 469 and recoup vetting costs. Similarly, for STAs in which the applicant has already completed a comparable STA and does not need to undergo the full standard STA, the reduced fee needs to increase from $29.00 to $31.00.[6] These increases ensure that fees collected by TSA in both Agent State and Non-Agent States are consistent to cover costs associated with commercial driver vetting, adjudication, and customer service.

[1] *See* 49 CFR 1572.15.

[2] *See* 70 FR 2542 (Jan. 13, 2005).

[3] The eight Non-Agent states include Florida, Kentucky, Maryland, New York, Pennsylvania, Texas, Virginia, and Wisconsin, at the time of this publication.

[4] *See* 49 CFR 1572.403(a)(2).

[5] *See* 31 U.S.C. 3512 (the Chief Financial Officers Act of 1990 (Pub. L. 101–576, 104).

[6] In accordance with 49 CFR 1572.5(e), TSA has determined that the STA for HME is comparable to the STA for Transportation Workers Identification Credential (TWIC®). Non-Agent States may offer a ''reduced or comparable fee'' if the applicant maintains a valid TWIC®.

II. Calculation of Fees

As discussed above, Congress directed TSA to collect user fees to cover the costs of its transportation vetting and credentialing programs.[7] TSA must collect fees to pay for conducting all portions of an STA, including adjudicating the vetting results; administering the redress process, including requests for correction of records, appeals, and waivers; information technology development and maintenance; personnel; billing and collections; and any other costs related to administering the STA. The statute requires that any fee collected must be used only to pay for the costs incurred in providing services associated with the STA. The funds generated by the fee do not have a limited period of time in which they must be used; as fee revenue and service costs do not always match perfectly for a given period, a program may need to carry over funding from one fiscal year to the next to ensure that sufficient funds are available to continue normal program operations. TSA complies with applicable requirements, such as the Chief Financial Officers Act of 1990[8] and Office of Management and Budget Circular A–25,[9] and regularly reviews the fees to ensure they recover, but do not exceed, the full cost of services.

TSA established the methodology for calculating the vetting fees for the HME program were explained in detail in the preamble to the HME Fees Final Rule.[10] In finalizing these HME methodologies, TSA considered comments from individual commercial drivers; labor organizations; trucking industry associations; State Departments of Motor Vehicles; associations representing the agricultural, chemical, explosives, maritime, and petroleum industries; and associations representing State governments. TSA has not changed the methodologies for determining these fees. TSA used that same methodology to evaluate the current HME fees and establish new fee amounts. *See* the Fee Development Report posted in the docket for additional details.

The new HME fees for STA applications for Non-Agent States are set forth below.

TABLE—COMPARISON OF CURRENT AND NEW HME FEES FOR NON-AGENT STATES BY ENROLLMENT TYPE

Non-agent state	Standard fee		Reduced fee	
	Current	New	Current	New
	$ 34.00	$ 57.25	$ 29.00	$ 31.00

Applicants in Non-Agent States may also have to pay the fee the State has established to recover its costs to collect and transmit information and fees to TSA.

Dated: August 23, 2024.

Chad M. Gorman,

Deputy Executive Assistant Administrator, Operations Support.

[FR Doc. 2024–19412 Filed 8–28–24; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX24GH00COM0000]

Public Meeting of the National Volcano Early Warning System Advisory Committee

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (FACA) of 1972, the U.S. Geological Survey (USGS) is publishing this notice to announce that a Federal Advisory Committee meeting of the National Volcano Early Warning System Advisory Committee (NVEWSAC) will take place and is open to members of the public.

DATES: The meeting will be held on Wednesday, September 18, 2024, from 9:00 a.m. to 5:00 p.m.; and on Thursday, September 19, 2024, from 9:00 a.m. to 3:00 p.m. Pacific Standard Time.

ADDRESSES: The meeting will be held in the TownPlace Suites, 17717 SE Mill Plain Blvd., Vancouver, WA 98683. Members of the public may attend the meeting in person or can attend via webinar. Comments can be sent by email to *gmayberry@usgs.gov*.

FOR FURTHER INFORMATION CONTACT: Gari Mayberry, Volcano Hazard Program Coordinator, USGS, by mail at 12201 Sunrise Valley Drive, MS 905, Reston, VA 20192; by email at *gmayberry@usgs.gov;* or by telephone at (703) 648–6711.

Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the FACA of 1972 (5 U.S.C. Ch. 10), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR part 102–3.

Purpose of the Meeting: The NVEWSAC provides advice and recommendations to the Secretary of the Interior through the Director of the USGS on the implementation of the National Volcano Early Warning and Monitoring System (NVEWS). Additional information about the NVEWSAC is available.

Agenda Topics:

—USGS and the Volcano Hazards Program
—Volcano Science Center and the USGS observatory system
—NVEWS
—The NVEWS Fumes Act
—NVEWSAC member updates
—Plan development progress
—Public comments

Meeting Accessibility/Special Accommodations: Please make requests in advance for sign language interpreter services, assistive listening devices, language translation services, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis. Seating for in-person attendees may be limited due to room capacity. Webinar/conference line instructions will be

[7] *See* 6 U.S.C. 469(a).

[8] *See* 31 U.S.C. 501 *et seq.*

[9] *See* OMB Circulars a–25.

[10] *See* 70 FR 2542 (Jan. 13, 2005).

provided to registered attendees prior to the meeting. Please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to register for the meeting.

Public Disclosure of Comments: There will be an opportunity for public comment each day of the meeting. Depending on the number of people who wish to speak and the time available, the time for individual comments may be limited. Written comments may also be sent to the NVEWSAC for consideration. To allow for full consideration of information by NVEWSAC members, written comments must be provided to Gari Mayberry (see **FOR FURTHER INFORMATION CONTACT**) at least three (3) business days prior to the meeting. Any written comments received will be provided to NVEWSAC members before the meeting.

Before including your address, phone number, email address, or other personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you may ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Members of the public wishing to participate in the meeting should contact Gari Mayberry by email at *gmayberry@usgs.gov* at least three (3) business days prior to the meeting. Meeting information, participation information, and the final agenda will be provided via email to registered participants.

Authority: 5 U.S.C. Ch. 10.

Gary Latzke,

Chief of Staff, Natural Hazards Mission Area, United States Geological Survey.

[FR Doc. 2024–19455 Filed 8–28–24; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[XXXD5198NI DS61100000 DNINR0000.000000 DX61104]

Notice of Meetings of the Exxon Valdez Oil Spill Public Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Meeting notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Department of the Interior is announcing that the Exxon Valdez Oil Spill (EVOS) Public Advisory Committee (PAC) will meet in person and by video teleconference as noted below.

DATES: The PAC will hold public meetings on September 16, 2024, from 12 p.m. to 2 p.m.; October 8, 2024, from 9 a.m. to 5 p.m., and on October 9, 2024, from 9 a.m. to 5 p.m. Alaska time (AKT).

ADDRESSES: The September 16, 2024, meeting will be held virtually.

The October 8–9, 2024, meeting will be held in-person in the Glenn Olds Hall Conference Room, 4210 University Drive, Anchorage, Alaska, and a virtual participation option will be available using the Microsoft Teams meeting platform. To view a tutorial on how to join a Teams meeting, please go to *https://support.microsoft.com/en-gb/office/join-a-meeting-in-microsoft-teams-1613bb53-f3fa-431e-85a9-d6a91e3468c9.*

The video feature will be turned off for all attendees except for the EVOS PAC, EVOS Trustee Council staff, presenters, and speakers during public comment to limit bandwidth use and maximize connectivity during the meeting. Please remain muted until you are called upon to speak.

Connect to meeting using Microsoft Teams link (video and audio):

Please check the EVOS Trustee Council website for updates regarding the meetings at *http://evostc.state.ak.us/*.

FOR FURTHER INFORMATION CONTACT: Grace Cochon, Department of the Interior, Office of Environmental Policy and Compliance, telephone number: (907) 227–3781; email: *grace_cochon@ios.doi.gov*.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The EVOS PAC was created pursuant to paragraph V.A.4 of the Memorandum of Agreement and Consent Decree entered into by the United States of America and the State of Alaska on August 27, 1991, and approved by the United States District Court for the District of Alaska in settlement of *United States of America* v. *State of Alaska,* Civil Action No. A91–081 CV. The EVOS PAC advises the EVOS Trustee Council on decisions relating to the allocation of settlement funds for restoration, monitoring, and other activities related to the oil spill.

The EVOS PAC meeting agenda for the September 16, 2024, meeting will include a discussion regarding the Killey River acquisition and the meeting agenda for the October 8–9, 2024, meeting will include review of the biennial report that summarizes program and project status. An opportunity for public comments will be provided. The final agenda and materials for the meeting will be posted on the EVOS Trustee Council website at *http://evostc.state.ak.us.* All EVOS PAC meetings are open to the public.

Public Input

Interested persons may choose to make oral comments at the meeting during the designated time. Depending on the number of people wishing to comment and the time available, the amount of time for oral comments may be limited. Interested parties should contact the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) for advance placement on the public speaker list for this meeting.

Meeting Accessibility/Special Accommodations

Please make requests in advance for sign language interpreter services, assistive listening devices, language translation services, or other reasonable accommodations. We ask that you contact the person listed in the (see **FOR FURTHER INFORMATION CONTACT**) section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the EVOS PAC to consider during the public meeting. Written statements may be sent in advance of the scheduled meeting at least three (3) business days prior to the meeting so that the information may be made available to the EVOS PAC for their consideration prior to this meeting. Written statements must be supplied to the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) and/or in writing in the following formats: A hard copy with original signature and/or an electronic copy (acceptable file formats are Adobe Acrobat PDF, MS Word, or rich text file).

Public Disclosure of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment, including your personal identifying information, may

be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. ch. 10.

Lisa Fox,

Regional Environmental Officer, Office of Environmental Policy and Compliance.

[FR Doc. 2024–19438 Filed 8–28–24; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_AK_FRN_MO4500181601; F–86061, F–16298, F–16299, F–16301, AA–61299, F–16304, F–85667, AA–61005, F–85702, AA–66614, AA–65515, AA–65516, AA–65513, AA–61301, AA–65514, F–16302]

Public Land Order No. 7947; Rescission of Public Land Order Nos. 7899, 7900, 7901, 7902, and 7903; Alaska.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This Order rescinds Public Land Order Nos. 7899 (*see* 86 FR 5236), and 7900, 7901, 7902, and 7903 (unpublished), which purported to revoke Alaska Native Claims Settlement Act (ANCSA) 17(d)(1) withdrawals affecting approximately 28 million acres of public lands within the Bay, Bering Sea-Western Interior, East Alaska, Kobuk-Seward Peninsula, and Ring of Fire planning areas.

DATES: This PLO takes effect on August 29, 2024.

FOR FURTHER INFORMATION CONTACT: Brittany Templeton, Realty Specialist, Bureau of Land Management (BLM) Alaska State Office, 222 West Seventh Avenue, Mailstop #13, Anchorage, AK 99513–7504, (907) 271–4214, or *btempleton@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point of contact in the United States.

SUPPLEMENTARY INFORMATION: The Department identified certain procedural and legal defects in the decision-making processes for PLO Nos. 7899 (*see* 86 FR 5236), 7900, 7901, 7902, and 7903 (unpublished) (collectively, ''the PLOs''), including insufficient analysis under the National Environmental Policy Act (NEPA), failure to comply with section 106 of the National Historic Preservation Act (NHPA), and failure to secure consent from the Department of Defense (DOD) with regard to lands under DOD administration as required by section 204(i) of FLPMA (43 U.S.C. 1714(i)). The Bureau of Land Management (BLM) has since analyzed the impacts of revoking the ANCSA 17(d)(1) withdrawals and opening the lands as stated in the five PLOs in the ANSCA 17(d)(1) Withdrawals Final Environmental Impact Statement under NEPA (*see* 89 FR 55654), consulted on the action under the NHPA, and sought consent from agencies managing overlapping withdrawals pursuant to section 204(i) of FLPMA. The Secretary has determined, after the BLM documented compliance with those laws, that revocation would not protect the public interest and has therefore selected the No Action Alternative as set forth in a Record of Decision signed on August 23, 2024. This Order rescinds as improperly issued the five PLOs that would partially revoke the ANCSA 17(d)(1) withdrawals across five planning areas.

Order

By virtue of the authority vested in the Secretary of the Interior by the Federal Land Policy and Management Act, 43 U.S.C. 1701 *et seq.,* including, but not limited to, the withdrawal revocation authority provided by section 204 of that Act, 43 U.S.C. 1714, and other authority, including her authority to correct legal errors of the Department, it is ordered as follows:

Subject to valid existing rights, Public Land Order Nos. 7899 (86 FR 5236), 7900, 7901, 7902, and 7903 are hereby rescinded as improperly issued; therefore, the ANCSA 17(d)(1) withdrawals remain in place to protect the public interest in important resource values insofar as they affect the Federal lands described in PLO Nos. 7899–7903 in the Bay, Bering Sea-Western Interior, East Alaska, Kobuk-Seward Peninsula, and Ring of Fire planning areas. The areas described aggregate a total of approximately 28,000,000 acres.

Deb Haaland,

Secretary of the Interior.

[FR Doc. 2024–19447 Filed 8–28–24; 8:45 am]

BILLING CODE 4331–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_AK_FRN_MO4500181306]

Notice of Availability of the Record of Decision for the Alaska Native Claims Settlement Act 17(d)(1) Withdrawals Final Environmental Impact Statement, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Record of Decision (ROD) for the Alaska Native Claims Settlement Act (ANCSA) 17(d)(1) Withdrawals Final Environmental Impact Statement (EIS). This ROD describes the decision rationale for the selection of the No Action Alternative. The ROD also describes the basis for Secretarial rescission of Public Land Order (PLO) Nos. 7899, 7900, 7901, 7902, and 7903. Any order rescinding these PLOs will be published separately.

DATES: The Secretary of the Interior signed the ROD on August 23, 2024. Any order rescinding PLOs will be published in the **Federal Register** and state its effective date.

ADDRESSES: The ROD is available via the internet at: *https://eplanning.blm.gov/eplanning-ui/project/2018002/510.*

FOR FURTHER INFORMATION CONTACT: Racheal Jones, BLM Project Manager, telephone (907) 290–0307; address ANCSA 17(d)(1) EIS, BLM Anchorage District Office, Attn: Racheal Jones, 4700 BLM Road, Anchorage, Alaska 99507; email *rajones@blm.gov.* Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Ms. Jones. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The U.S. Department of the Interior (DOI), BLM Alaska, prepared the ANCSA 17(d)(1) Withdrawals EIS to evaluate the effects of any Secretarial decision to revoke withdrawals established following enactment of ANCSA section 17(d)(1) affecting the lands described in PLO Nos. 7899 through 7903. PLO Nos. 7900, 7901, 7902, and 7903 would have revoked withdrawals on lands in the Ring of Fire, Bay, Bering Sea-Western Interior, and East Alaska planning areas,

respectively. These PLOs were signed on January 15 and 16, 2021; however, they were never published in the **Federal Register**. PLO No. 7899, which would have revoked withdrawals on lands in the Kobuk-Seward Peninsula planning area, was signed on January 11, 2021, and published in the **Federal Register** on January 19, 2021 (86 FR 5236).

Subsequently, the DOI identified certain procedural and legal defects in the decision-making process for these five PLOs, as described in the April 16, 2021, **Federal Register** notice (86 FR 20193), including an insufficient analysis under the National Environmental Policy Act (NEPA). The DOI extended the opening order for PLO No. 7899 until August 31, 2024, to provide an opportunity to review the decisions and to ensure the orderly management of the public lands (88 FR 21207). The BLM used this time to address identified deficiencies and to update the NEPA analysis. The Secretary identified the No Action Alternative (Alternative A) as the preferred alternative in the final EIS. A Notice of Availability for the ANCSA 17(d)(1) Withdrawals Final EIS was published in the **Federal Register** on July 5, 2024 (89 FR 55654). Any order rescinding these PLOs will be published separately with the effective date listed with that order.

(Authority: 40 CFR 1501.9(c)(5))

Deb Haaland,

Secretary of the Interior.

[FR Doc. 2024–19445 Filed 8–28–24; 8:45 am]

BILLING CODE 4331–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_NV_FRN_MO#4500180231]

30-Day Extension of the Call for Nominations for the Avi Kwa Ame National Monument Advisory Committee

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension.

SUMMARY: The Bureau of Land Management (BLM) is seeking nominations for membership on the Avi Kwa Ame National Monument Advisory Committee (MAC). The MAC will advise the Secretary of the Interior through the BLM regarding the development of the management plan and management of the monument. This is a 30-day extension of the call for nominations published in the **Federal Register** on July 30, 2024.

DATES: The deadline for submission of nominations for membership on the MAC published July 30, 2024, at 89 FR 61132, is extended. Nominations for membership on the MAC must be received no later than September 30, 2024.

ADDRESSES: Nominations for the MAC should be sent to the BLM office listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Kirsten Cannon, Public Affairs Specialist, Southern Nevada District, 4701 North Torrey Pines, Las Vegas, Nevada 89130; phone: (702) 515–5057; email: *k1cannon@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 10533 directs the Secretary of the Interior to establish and maintain an advisory committee under FACA (5 U.S.C. ch. 10) with the specific purpose of providing information and advice regarding the development of the management plan and management of the monument. The MAC is established in accordance with section 309 of the Federal Land Policy and Management Act, as amended (43 U.S.C. 1739). The BLM is subject to standards and procedures for the creation, operation, and termination of BLM resource advisory councils found at 43 CFR part 1784 subpart 1787 and the Federal Advisory Committee regulations found at 41 CFR part 102–3.

The MAC will consist of 15 representatives to be appointed by the Secretary of the Interior as follows:

1. Eight representatives of Tribal Nations with historical connection to the lands within the Monument;
2. A representative of developed outdoor recreation activities;
3. A representative of dispersed recreational activities, including hunting or wildlife organizations;
4. A representative of the conservation community;
5. A representative of the scientific community;
6. A representative of local business owners;
7. A representative of local governmental entities; and
8. A representative of local citizens.

Representatives will be appointed to the MAC to serve three-year staggered terms. Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding the membership requirements of the MAC and permit the Department of the Interior to contact a potential member. Nominees are strongly encouraged to include supporting letters from employers, associations, professional organizations, and/or other organizations that indicate support by a meaningful constituency for the nominee. Nominees should indicate any BLM permits, leases, or licenses that they hold personally or are held by their employer. Members of the MAC serve without compensation. However, while away from their homes or regular places of business, members engaged in MAC business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

The MAC will meet approximately two to four times annually, and at such other times as designated by the Designated Federal Officer.

Simultaneous with this notice, the BLM will post additional information for submitting nominations at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/nevada/avi-kwa-ame-mac.*

The original call for nominations was published in the **Federal Register** (89 FR 61132) on July 30, 2024, with a 30-day nomination period ending August 29, 2024. This notice provides additional time for nominations (see **DATES**, above).

(Authority: 43 CFR 1784.4–1)

Bruce Sillitoe,

Las Vegas Field Office Manager.

[FR Doc. 2024–19391 Filed 8–28–24; 8:45 am]

BILLING CODE 4331–21–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–38604; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before August 17, 2024, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by September 13, 2024.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before August 17, 2024. Pursuant to section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers.

Key: State, County, Property Name, Multiple Name (if applicable), Address/Boundary, City, Vicinity, Reference Number.

ARIZONA

Maricopa County

The Olympus Condominiums, 6502 N Central Avenue, Phoenix, SG100010859

IOWA

Louisa County

Mellinger Memorial Library, 11 East Division Street, Morning Sun, SG100010863

LOUISIANA

Calcasieu Parish

Ryan Street Historic District, 601–800 Ryan St., 102–11O W Broad St., 311–345 Broad St., 800 Bilbo St., Lake Charles, SG100010868

MARYLAND

Baltimore Independent City

Old West Baltimore Historic District (Additional Documentation) (The Women's Suffrage Movement in Maryland MPS), Roughly bounded by North Ave., Dolphin St., Franklin St. and Fulton Ave., Baltimore (Independent City), MP04001374

Mount Vernon Place Historic District (Additional Documentation) (The Women's Suffrage Movement in Maryland MPS), Mount Vernon Pl. and Washington Pl., Baltimore (Independent City), MP71001037

Belvedere Hotel (Additional Documentation) (The Women's Suffrage Movement in Maryland MPS), 1 E Chase St., Baltimore (Independent City), MP77001529

Sharp Street Memorial United Methodist Church and Community House (Additional Documentation) (The Women's Suffrage Movement in Maryland MPS), 508–516 Dolphin St. & 1206–1210 Etting St., Baltimore (Independent City), MP82004749

Brown's Arcade (Additional Documentation) (The Women's Suffrage Movement in Maryland MPS), 322–328 N Charles St., Baltimore (Independent City), MP83002927

Fifth Regiment Armory (Additional Documentation) (Maryland National Guard Armories TR), 210–247 W Hoffman St., Baltimore (Independent City), MP85002671

Lyric Theatre (Additional Documentation) (The Women's Suffrage Movement in Maryland MPS), 124 W Mt. Royal Ave., Baltimore (Independent City), MP86000131

Goucher College Historic District, Old (Boundary Increase) (Additional Documentation) (The Women's Suffrage Movement in Maryland MPS), Roughly bounded by W 25th St., Guilford Ave., North Ave. and Howard St., Baltimore (Independent City), MP94001163

Washington County

Antietam Farm, 3724 Mills Road, Sharpsburg, SG100010858

OREGON

Benton County

Gorman, Hannah and Eliza, House (Additional Documentation) (Settlement-era Dwellings, Barns and Farm Groups of the Willamette Valley, Oregon MPS), 641 NW, 4th St., Corvallis, MP15000045

SOUTH CAROLINA

Greenville County

McBride's Office Supply, 832 Wade Hampton Blvd., Greenville, SG100010864

TEXAS

Wilson County

Beauregard Ranch, Address Restricted, Falls City vicinity, SG100010865

WISCONSIN

Door County

PRIDE Shipwreck (Schooner) (Great Lakes Shipwreck Sites of Wisconsin MPS), 250 feet north of the intersection of W Juniper St. and N Lancing Ave. in Sturgeon Bay, in the waters of Sturgeon Bay, Sturgeon Bay, MP100010860

Authority: Section 60.13 of 36 CFR part 60.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2024–19409 Filed 8–28–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

FBI Criminal Justice Information Services Division; User Fee Schedule

AGENCY: Federal Bureau of Investigation (FBI), Justice.

ACTION: Notice.

SUMMARY: The FBI is authorized to establish and collect fees for providing fingerprint-based and name-based criminal history record information (CHRI) checks submitted by authorized users for noncriminal justice purposes including employment and licensing. A portion of the fee is intended to reimburse the FBI for the cost of providing fingerprint-based and name-based CHRI checks (''cost reimbursement portion'' of the fee). The FBI is also authorized to charge an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs (''automation portion'' of the fee). This notice provides the revised fee schedule.

DATES: This revised fee schedule takes effect January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia D. Harris, Chief, Financial Management Unit, Resources Management Section, Criminal Justice Information Services (CJIS) Division, FBI, 1000 Custer Hollow Road, Module D–3, Clarksburg, WV 26306. Telephone number 304–625–4152.

SUPPLEMENTARY INFORMATION: Pursuant to the authority in Public Law 101–515, as amended and codified at 34 United States Code (U.S.C.) section 41104, the FBI has established user fees for authorized agencies requesting noncriminal justice fingerprint-based and name-based CHRI checks. These noncriminal justice, fingerprint-based

CHRI checks are performed for noncriminal justice, non-law enforcement employment and licensing purposes, and for certain employees of private sector contractors with classified government contracts. The noncriminal justice, name-based CHRI checks are biographic checks of the biometric system limited to those agencies authorized via 5 U.S.C. 9101, Security Clearance Information Act of 1985.

In accordance with the requirements of Title 28, Code of Federal Regulations (CFR), section 20.31(e), the FBI periodically reviews the process of providing fingerprint-based and name-based CHRI checks to determine the proper fee amounts which should be collected, and the FBI publishes any resulting fee adjustments in the **Federal Register**.

A fee study was conducted in keeping with 28 CFR 20.31(e)(2) and employed the methodology detailed in **Federal Register** notices 75 *FR* 18751 and 83 *FR* 48335. The fee study results recommended a decrease in the fingerprint-based and name-based CHRI checks from the current user fees published in the **Federal Register** on August 4, 2022 (87 *FR* 47794), which have been in effect since October 1, 2022. The FBI reviewed the results of the independently conducted User Fee Study, compared the recommendations to the current fee schedule, and determined the revised fee recommendation amounts for both the cost reimbursement portion and automation portion of the fee were reasonable and in consonance with the underlying legal authorities.

Pursuant to the recommendations of the study, the fees for fingerprint-based CHRI checks will be decreased and the fee for name-based CHRI checks will also decrease for federal agencies specifically authorized by statute, *e.g.,* pursuant to 5 U.S.C. 9101, Security Clearance Information Act of 1985.

The following tables detail the fee amounts for authorized users requesting fingerprint-based and name-based CHRI checks for noncriminal justice purposes, including the difference from the fee schedule currently in effect.

FINGERPRINT-BASED CHRI CHECKS

Service	Fee currently in effect	Fee currently in effect for CBSPs [1]	Change in fee amount	Revised fee	Revised fee for CBSPs
Fingerprint-based Submission	$13.25	$11.25	($1.25)	$12.00	[2] $10.00
Fingerprint-based Volunteer Submission [3]	11.25	9.25	(1.25)	10.00	[4] 8.00

[1] Centralized Billing Service Providers, see 75 FR 18753.
[2] Cost Recovery = $3; Automation = $7.
[3] Volunteers providing care for children, the elderly, or individuals with disabilities. *See e.g.,* 75 FR 18752, 83 FR 48335.
[4] Cost Recovery = $3; Automation = $5.

NAME-BASED CHRI CHECKS

Service	Fee currently in effect	Change in fee amount	Revised fee
Name-based Submission	$2.00	($1.00)	$1.00

Dated: August 14, 2024.

Christopher A. Wray,

Director.

[FR Doc. 2024–19086 Filed 8–28–24; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0111]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Revision of a Currently Approved Collection: National Crime Victimization Survey (NCVS)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until September 30, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Jennifer Truman, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531; email: *Jennifer.Truman@usdoj.gov;* telephone: 202–307–0765.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on August 13, 2023, allowing a 60-day comment period. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and/or
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website

www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB Control Number 1121–0111. This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *Title of the Form/Collection:* National Crime Victimization Survey.

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form numbers for the questionnaire are the NCVS–1 and NCVS–2. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Persons 12 years or older living in sampled households located throughout the United States will be asked to respond. Abstract: The National Crime Victimization Survey (NCVS) provides national data on the level and change of criminal victimization both reported and not reported to police in the United States. The 2025 NCVS data collection will be the first full year of data collection with the new NCVS instrument. The new NCVS instrument improves measurement of victimization and incident characteristics and includes two new periodic modules on police performance and community safety.

5. *Obligation to Respond:* Voluntary.

6. *Total Estimated Number of Respondents:* 180,831.

7. *Estimated Time per Respondent:* 36 minutes to complete the new NCVS instrument. It will take the average non-interviewed respondent (*e.g.,* nonrespondent) an estimated 10 minutes to respond; the average follow-up interview is estimated at 7 minutes; and the average follow-up for a non-interview is estimated at 1 minute.

8. *Frequency:* Annual.

9. *Total Estimated Annual Time Burden:* 156,241 hours.

10. *Total Estimated Annual Other Costs Burden:* $0.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W–218 Washington, DC 20530.

Dated: August 26, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–19433 Filed 8–28–24; 8:45 am]

BILLING CODE 4410–18–P

OFFICE OF MANAGEMENT AND BUDGET

Proposed Designation of Databases to the Do Not Pay Working System

AGENCY: Office of Management and Budget.

ACTION: Notice of proposed designation.

SUMMARY: The Payment Integrity Information Act of 2019 (PIIA) authorizes the Office of Management and Budget (OMB) to designate additional databases for inclusion in the Department of the Treasury (Treasury) Do Not Pay Working System under the Do Not Pay Initiative. PIIA requires OMB to provide public notice and an opportunity for comment prior to designating additional databases. In fulfillment of this requirement, OMB is publishing this Notice of Proposed Designation to provide the public an opportunity to comment on the proposed designation of: Treasury's Account Verification Services (AVS); and Treasury's Death Notification Entries (DNE). This notice has a 30-day comment period.

DATES: Comments must be in writing and must be received by on or before September 30, 2024. At the conclusion of the 30-day comment period, if OMB decides to finalize the designation, OMB will publish a notice in the **Federal Register** to officially designate the databases.

ADDRESSES: Comments on this proposal must be submitted electronically before the comment closing date to *www.regulations.gov.* In submitting comments, please search for recent submissions by OMB to find docket OMB–2024–0006, and follow the instructions for submitting comments. Public comments are valuable, and they will inform OMB Do Not Pay Initiative data designation; however, OMB will not respond to individual submissions.

Privacy Act Statement: OMB is issuing this notice pursuant to PIIA. Submission of comments in response to this Notice of Proposed Designation is voluntary. Comments may be used to inform sound decision making on topics related to this Notice of Proposed Designation. Please note that submissions received in response to this notice may be posted on *www.regulations.gov* or otherwise released in their entirety, including any personal information, business confidential information, or other sensitive information provided by the commenter. Do not include in your submissions any copyrighted material; information of a confidential nature, such as personal or proprietary information; or any information you would not like to be made publicly available. Comments are maintained under the OMB Public Input System of Records, OMB/INPUT/01; the system of records notice accessible at 88 FR 20913 (*https://www.federalregister.gov/documents/2023/04/07/2023-07452/privacy-act-of-1974-system-of-records*) includes a list of routine uses associated with the collection of this information.

FOR FURTHER INFORMATION CONTACT: Rebecca Rowe, Policy Analyst, Office of Federal Financial Management, OMB (telephone: 202–395–3993; email: *PaymentIntegrity@omb.eop.gov*).

SUPPLEMENTARY INFORMATION: PIIA codified the Do Not Pay Initiative in Title 31 of the U.S. Code. Prior to enactment of PIIA, the Do Not Pay Initiative was already established by law and underway across the Federal Government.[1] The Do Not Pay Initiative includes multiple resources designed to help Federal agencies in the Executive Branch (hereafter ''Federal agencies''), the judicial and legislative branches of the Federal Government, and Federally Funded State Administered (FFSA) programs review payment and award eligibility for purposes of identifying and preventing improper payments. As part of the Do Not Pay Initiative, OMB designated Treasury to host the Do Not Pay Working System, which is a centralized portal through which users can search multiple databases at one time to obtain information about potential payees and awardees. PIIA[2] authorizes OMB to designate additional databases for inclusion in the Do Not

[1] The Improper Payments Elimination and Recovery Improvement Act of 2012, Public Law 112–248, first established the Do Not Pay Initiative.

[2] Codified at 31 U.S.C. 3351–58.

Pay Initiative [3] if the database substantially assists in preventing improper payments.

Do Not Pay Working System Privacy, Security, and Legal Implications

Treasury reports that all Do Not Pay Working System users and administrators are required to sign rules of behavior stipulating their responsibilities to minimize risks associated with the use of specific data. Treasury also reports that it has dedicated resources to establish a privacy program based on applicable requirements, the Fair Information Practice Principles (FIPPs), and industry best practices. Treasury reports that its privacy program supports various internal controls in collaboration with Treasury leadership and legal counsel, as well that projects are reviewed by Treasury through a data usage governance process. Treasury has responsibility for compliance with privacy restrictions and manages risks associated with the use of specific data to reduce improper payments for Do Not Pay Working System users.

Treasury risk mitigation measures for the Do Not Pay Working System include maintaining a current and compliant Security Accreditation and Authorization (SA&A) package, in accordance with Federal Information Security Management Act (FISMA) requirements. Additionally, to reduce the likelihood of unauthorized access, login to the Do Not Pay Working System requires Personal Identity Verification (PIV) credentials, *Login.gov* account management, or ID.ME.

Overview of Designating AVS and DNE

OMB has reviewed the recommendation of Treasury to designate the following two databases for inclusion in the Do Not Pay Working System:

1. *AVS:* Fiscal Service, under its statutory authorities, provides AVS through a qualified financial institution serving as a designated financial agent. AVS is used widely in both the private and public sectors for bank account validation and identity validation. AVS is most often used prior to initiating a payment to prevent payment fraud and other administrative returns. Bank account verification is a process that confirms the status and ownership of a bank account and is commonly used for electronic payments to help avoid errors, reduce fraud, and protect the accuracy of electronic transactions. Identity verification is used to verify the identity of potential payee or awardee individuals and businesses.

2. *DNE:* Fiscal Service's DNE data is a subset of its payment/post-payment data provided by federally funded programs disbursing through Fiscal Service. It contains information regarding payees who have been identified as deceased by paying agencies. DNEs are sent to financial institutions to flag a decedent's account to prevent the acceptance of any further post-death Federal benefit payments.

OMB proposes to designate these databases for inclusion in the Do Not Pay Working System because these databases will substantially assist in preventing improper payments. In making this determination, OMB considered the following: (1) statutory or other limitations on the use and sharing of specific data; (2) privacy restrictions and risks associated with specific data; (3) likelihood that the data will strengthen program integrity across programs and agencies; (4) benefits of streamlining access to the data through the central Do Not Pay Initiative; (5) costs associated with expanding or centralizing access, including modifications needed to system interfaces or other capabilities in order to make data accessible; and (6) other policy and stakeholder considerations, as appropriate.

Considerations for Designating AVS and DNE

Fiscal Service has prepared justifications for each of the six factors, as summarized below. These justifications have been reviewed by OMB.

1. Statutory or other limitations on the use and sharing of specific data:

a. There are no statutory or other limitations that would prevent the Do Not Pay Working System from using AVS or DNE data.

2. Privacy restrictions and risks associated with specific data:

a. In evaluating potential privacy risks and compliance measures associated with the designation of these databases, Fiscal Service conducted separate privacy risk assessments for both AVS and DNE. The privacy risk assessments for AVS and DNE aimed to: ensure conformance with applicable legal, regulatory, and policy requirements for privacy; determine the risks and effects; and evaluate protections and alternative processes to mitigate potential privacy risks.

i. *AVS:* Fiscal Service provides AVS through a qualified financial institution serving as a designated financial agent. The relationship between Fiscal Service and the applicable financial agent is formalized through a Financial Agency Agreement (FAA). Fiscal Service's AVS utilizes a commercial database source of real-time bank data from a network of member banks. The database will be validating identity and bank account information and verifying that the bank account owner matches the intended payee. This information can be used to assist in detecting and preventing government payment fraud. Fiscal Service has determined that AVS does not by itself meet the definition of a system of records under the Privacy Act of 1974 (Privacy Act),[4] as amended, which is codified at 5 U.S.C. 552a(a)(5).[5] However, Do Not Pay Working System users will compare information contained within their respective systems of records (as applicable) against information in the AVS commercial database source. Additionally, and as noted above, before a customer receives access to the Do Not Pay Working System, it is required that the customer sign the Do Not Pay Working System Rules and Behaviors Agreement.

b. *DNE:* DNEs pertain to deceased persons. The beneficiary/recipient in the DNE is identified as deceased by the originator of the DNE, and, therefore, the DNE data maintained by Fiscal Service would not be covered by the Privacy Act. However, Fiscal Service still employs privacy protections for this information. To ensure that all information (including DNEs) within the overarching Payments, Claims, and Enhanced Reconciliation (PACER) information system security boundary meets minimum security and privacy controls, both living and deceased individuals are afforded the same robust privacy safeguards inherited from the boundary level.

3. Likelihood that the data will strengthen program integrity across programs and agencies:

a. *AVS:* Access to AVS will strengthen program integrity across programs and agencies by identifying missing, incorrect, and fraudulent account information. In addition to identifying improper payments, implementation of AVS in the front-end of the payment cycle will help agencies prevent improper payments from being sent to the wrong account and individual. AVS will also assist the Federal government in preventing certification of improper payments before disbursement, rather

[3] 31 U.S.C. 3354(b)(1)(B). OMB designated the Department of the Treasury to host the Do Not Pay Working System. The Do Not Pay Working System is part of the broader Do Not Pay Initiative.

[4] Public Law 93–579.

[5] The AVS is not under the control of the Fiscal Service, but rather is provided by its designated financial agent.

than pursuing a collection after the payment is made.

b. *DNE:* DNEs would strengthen program integrity across programs and agencies as an additional high-quality source of death information. DNEs are assertions by Federal agencies that a beneficiary or other payee has died. Matches to records contained in the DNE database are expected to be higher confidence than larger datasets as each individual death entry has been verified by the initiating agency according to their due diligence procedure(s).

4. Benefits of streamlining access to the data through the central Do Not Pay Initiative:

a. *AVS:* It will be beneficial to streamline access to AVS through the Do Not Pay Working System. AVS is provided to Treasury by a financial agent whose services without a central offering would require individual acquisition efforts from non-Treasury agencies. Also, as the operator of the Do Not Pay Working System, Fiscal Service will have the opportunity to offer AVS to FFSA programs. AVS data can be used in coordination with other Do Not Pay and Fiscal Service data products to verify a range of eligibility criteria.

b. *DNE:* It would be beneficial to streamline access to DNE through the Do Not Pay Working System. DNE records are currently owned by Fiscal Service but are not yet being used across agencies and payments. By designating DNE and expanding its use through the Do Not Pay Working System, more agencies will gain access to a high-quality database.

5. Costs associated with expanding or centralizing access, including modifications needed to system interfaces or other capabilities in order to make data accessible:

a. *AVS:* Fiscal Service has projected that the cost of AVS would be roughly $11.8 million over the course of five fiscal years. Any costs associated with modifications to system interfaces can be absorbed into the scope of regular development schedules.

b. *DNE:* Do Not Pay Working System access to DNE data can be expanded at no additional development cost.

6. Other policy and stakeholder considerations:

a. *AVS:* AVS has been leveraged by Fiscal Service's Office of Payment Integrity (OPI) for analytics projects related to account verification. OPI estimates a return on investment (ROI) between $48 and $431 per dollar spent on AVS searches.

b. *DNE:* There are no other policy and stakeholder considerations for DNE.

Shalanda Young,

Director, Office of Management & Budget.

[FR Doc. 2024–18689 Filed 8–28–24; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24–058]

NASA Advisory Council; Human Exploration and Operations Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration (NASA) announces a meeting of the Human Exploration and Operations Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Tuesday, September 17, 2024, 9:30 a.m. to 4:30 p.m. All times are eastern time.

ADDRESSES: Public attendance will be virtual only. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Dr. Bette Siegel, Designated Federal Officer, Human Exploration and Operations Committee, NASA Headquarters, Washington, DC 20546, via email at *bette.siegel@nasa.gov* or 202–358–2245.

SUPPLEMENTARY INFORMATION: As noted above, this meeting will be open to the public via Webex and telephonically. Webex connectivity information is provided below. For audio, when you join the Webex Webinar, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed.

On September 17, the event address for attendees is: *https://nasaenterprise.webex.com/nasaenterprise/j.php?MTID=m91721cc21974b380a586a69c7b11e415.*

The webinar number is 2831 319 9645 and the webinar password is 5pMuwqJB*89. If needed, the U.S. toll conference number is 1–929–251–9612 or 1–415–527–5035 and access code is 283 131 99645 and password is 57689752.

The agenda for the meeting includes the following topics:

—Space Operations Mission Directorate
—Human Research Program
—International Space Station
—Commercial Crew Program
—Commercial LEO Development/Commercial Space Stations
—Space Communications and Navigation Program

It is imperative that this meeting is held on this day to accommodate the scheduling priorities of the key participants.

For more information, please visit *https://www.nasa.gov/nac/heo-committee/.*

Jamie M. Krauk,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–19471 Filed 8–28–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24–059]

NASA Balloon Program Independent Review Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Balloon Program Independent Review Subcommittee. This subcommittee reports to the NASA Astrophysics Advisory Committee, which reports to the Director, Astrophysics Division, Science Mission Directorate, NASA Headquarters. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Thursday, September 12, 2024, 9:00 a.m. to 5:00 p.m. eastern time.

ADDRESSES: Public attendance will be virtual only. See dial-in and webinar information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: As noted above, this meeting is virtual and will take place telephonically and via a webinar. Any interested person must use a touch-tone phone to participate in this meeting. The connectivity information for each day is provided below. For audio, when you join the

event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed for each day. The webinar information for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=m78d8aba84d917dacd434b45e863dabc2.* The meeting number is: 2824 694 9184 and the meeting password is: KFu9r3Ydqd3 (53897393 when dialing from a phone or video system).

To join by telephone, the toll numbers are +1–415–527–5035 United States Toll or +1–312–500–3163 United States Toll (Chicago). Access code: 282 469 49184.

The agenda for the meeting includes the following topics:

—Summary of the Balloon Program Independent Review Subcommittee Charge

—Discussion and Deliberations on Recommendations for the Balloon Program.

The agenda and Program Analysis Group presentations will be posted on the Astrophysics Advisory Committee web page: *https://science.nasa.gov/researchers/nac/science-advisory-committees/apac.*

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Jamie M. Krauk,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2024–19473 Filed 8–28–24; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Astronomy and Astrophysics Advisory Committee (#13883) (Hybrid).

Date and Time: September 19–20, 2024; 9 a.m.–4 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Room E 3430, Alexandria, VA 22314.

This is a hybrid meeting. Members and the public may attend this meeting in-person or virtually via Zoom.

Attendance information for the meeting will be forthcoming on the website: *https://www.nsf.gov/mps/ast/aaac.jsp.*

The link for registration for Zoom is: *https://nsf.zoomgov.com/webinar/register/WN_mxHAQesWQ6CiQUgbjgyAiA.*

Type of Meeting: Open

Contact Person: Dr. Daniel Fabrycky, Program Director, Division of Astronomical Sciences, Suite W 9176, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: 703–292–8490.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies. To prepare the annual report.

Agenda: To hear presentations of current programming by representatives from NSF, NASA, DOE and other agencies relevant to astronomy and astrophysics; to discuss current and potential areas of cooperation between the agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: August 26, 2024.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2024–19454 Filed 8–28–24; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0189]

Information Collection: Public Records and NRC Forms 507 and 509

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Public Records and NRC Forms 507 and 509.''

DATES: Submit comments by September 30, 2024. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2023–0189 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0189.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML24022A113, ML24227A020, and ML24022A116. The supporting statement and burden spreadsheet are available in ADAMS under Accession Nos. ML24191A457 and ML24022A112.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone:

301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Public Records and NRC Forms 507 and 509.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on May 6, 2024, 89 FR 37267.

1. *The title of the information collection:* Public Records and NRC Forms 507 and 509.

2. *OMB approval number:* 3150–0043.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Forms 507 and 509.

5. *How often the collection is required or requested:* On occasion.

6. *Who will be required or asked to respond:* Freedom of Information Act (FOIA) requesters, outside vendors, and licensees who submit an objection to disclosure.

7. *The estimated number of annual responses:* 628.

8. *The estimated number of annual respondents:* 273.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 180.5.

10. *Abstract:* The FOIA, 5 U.S.C. 552, and the implementing regulations, part 9 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Public Records,'' require individuals seeking access to records under the FOIA and Privacy Act of 1974, as amended, 5 U.S.C. 552a, to submit a request in writing and to describe the records sought sufficiently for the NRC to conduct a reasonable search. The Privacy Act of 1974, as amended, 5 U.S.C. 552a, establishes a code of fair information practices that governs the collection, maintenance, use, and dissemination of information about individuals that is maintained in systems of records by Federal agencies. Specifically, Subpart B (Privacy Act regulations) implements the provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, with respect to the procedures by which individuals may determine the existence of, seek access to, and request correction of NRC records concerning themselves. Requesters can currently submit FOIA and/or Privacy Act requests in writing, fax, email, *https://www.foia.gov* or by using the Public Access Link (*https://foia.nrc-gateway.gov/app/Home.aspx*). NRC Form 509, ''Statement of Estimated Fees for Freedom of Information Act (FOIA) Request'' is used by: (1) the NRC to notify requesters that fees will be assessed for processing their FOIA requests, (2) the requester to notify NRC in writing of their agreement to pay fees, (3) the NRC to notify the requester to submit a written request for a waiver pursuant to 10 CFR 9.41 within 10 working days from the receipt of the notice, and (4) the NRC to notify the requester to provide advanced payment of estimated fees. NRC Form 507, ''Identity Verification and/or Third-Party Authorization for Freedom of Information Act/Privacy Act Requests,'' is used by requesters to provide the identity verification or third-party authorization that is needed by the NRC in order to process their requests. The NRC uses the information provided by requesters to process requests from the public. In addition, outside vendors and licensees can submit an objection to disclosure. The NRC needs this information to properly process FOIA requests that involve confidential information or trade secrets.

Dated: August 26, 2024.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2024–19470 Filed 8–28–24; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: USAJOBS Career Explorer, OMB Control No. 3206–NEW

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, OPM is proposing a new information collection for USAJOBS Career Explorer. The information collection was previously published in the **Federal Register** on 04/16/2024 allowing for a 60-day public comment period. No comments were received.

DATES: Comments are encouraged and will be accepted until September 30, 2024. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Office of Personnel Management'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

FOR FURTHER INFORMATION CONTACT: For specific questions related to this information collection activities, please contact. Human Resources Solution, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415, Attention: Cori Schauer, via phone 202–606–1200 or via electronic mail to *USAJOBSEngagement@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Personnel Management, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the public with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Agency assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Agency's information collection requirements and provide the requested

data in the desired format. OPM is soliciting comments on the proposed information collection request (ICR) that is described below. The Agency is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Agency; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Agency enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Agency minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Analysis

Agency: Office of Personnel Management.

Title: OPM Customer Experience.

OMB Number: 3206–NEW.

Affected Public: Individuals.

Number of Forms Completed in One Year: 300,000.

Estimated Time per Respondent: .25 hours.

Total Burden Hours: 75,000 hours.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2024–19180 Filed 8–28–24; 8:45 am]

BILLING CODE 6325–43–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–536 and CP2024–544; MC2024–537 and CP2024–545; MC2024–538 and CP2024–546; MC2024–539 and CP2024–547; MC2024–540 and CP2024–548; MC2024–541 and CP2024–549; MC2024–542 and CP2024–550; MC2024–543 and CP2024–551; MC2024–544 and CP2024–552; MC2024–545 and CP2024–553]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* September 3, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2024–536 and CP2024–544; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 235 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* September 3, 2024.

2. *Docket No(s).:* MC2024–537 and CP2024–545; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 236 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* September 3, 2024.

3. *Docket No(s).:* MC2024–538 and CP2024–546; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 237 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* September 3, 2024.

4. *Docket No(s).:* MC2024–539 and CP2024–547; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 238 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* September 3, 2024.

5. *Docket No(s).:* MC2024–540 and CP2024–548; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 239 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 3, 2024.

6. *Docket No(s).:* MC2024–541 and CP2024–549; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 240 to Competitive Product

List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 3, 2024.

7. *Docket No(s).:* MC2024–542 and CP2024–550; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 241 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* September 3, 2024.

8. *Docket No(s).:* MC2024–543 and CP2024–551; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 242 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 3, 2024.

9. *Docket No(s).:* MC2024–544 and CP2024–552; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 243 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 3, 2024.

10. *Docket No(s).:* MC2024–545 and CP2024–553; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 244 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* September 3, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2024–19462 Filed 8–28–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–433, OMB Control No. 3235–0489]

Submission for OMB Review; Comment Request; Extension: Rule 17a–6

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17a–6 (17 CFR 240.17a–6) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17a–6 permits national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board (''MSRB'') (collectively, ''SROs'') to destroy or convert to microfilm or other recording media records maintained under Rule 17a–1, if they have filed a record destruction plan with the Commission and the Commission has declared such plan effective.

There are currently 36 SROs: 25 national securities exchanges, 1 national securities association, the MSRB, and 9 registered clearing agencies. Of the 36 SROs, only 2 SRO respondents have filed a record destruction plan with the Commission. The staff calculates that the preparation and filing of a new record destruction plan should take 160 hours. Further, any existing SRO record destruction plans may require revision, over time, in response to, for example, changes in document retention technology, which the Commission estimates will take much less than the 160 hours estimated for a new plan. The Commission estimates that each SRO that has filed a destruction plan will spend approximately 30 hours per year making required revisions. Thus, the total annual time burden is estimated to be approximately 60 hours per year based on two respondents (30 hours per respondent × 2 respondents).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by September 30, 2024 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: August 26, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–19443 Filed 8–28–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100814; File No. SR–CboeBZX–2024–032]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 2 and 3, To Amend Rule 11.28(a) To Add Three Additional Market-on-Close Cut-Off Times to Cboe Market Close

August 23, 2024.

I. Introduction

On April 29, 2024, Cboe BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BZX Rule 11.28(a) to add several additional Market-on-Close (''MOC'') Cut-Off Times to Cboe Market Close. On May 13, 2024, the Exchange filed Amendment No. 1, which replaced and superseded the proposed rule change as originally filed. The proposed rule change, as modified by Amendment No.1, was published for comment in the **Federal Register** on May 29, 2024.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 100129 (May 14, 2024), 89 FR 46428 (''Notice'').

On July 8, 2024, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On August 12, 2024, the Exchange submitted Amendment No. 2 to the proposed rule change.[6] On August 14, 2024, the Exchange submitted Amendment No. 3 to the proposed rule change.[7] The Commission has received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment Nos. 2 and 3 from interested persons and is approving the proposed rule change, as modified by Amendment Nos. 2 and 3, on an accelerated basis.

II. The Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 2 [8]

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BZX proposes to amend Rule 11.28(a) to add three additional CMC MOC Cut-Off times. These proposed CMC MOC Cut-Off times would be in addition to the existing CMC MOC Cut-Off time of 3:49 p.m. ET, for a total of four matching sessions: 3:15 p.m. ET (new); 3:30 p.m. ET (new); 3:49 p.m. ET (current); and 3:54 p.m. ET (new).[9] The 3:54 p.m. CMC MOC Cut-Off Time will be limited to only Nasdaq-listed securities. Additionally, the Exchange proposes to amend Interpretations and Polices .02 to Rule 11.28 in order to more accurately describe how the Exchange will handle orders designated for multiple CMC MOC Cut-Off Times in the event the Exchange experiences a matching impairment impacting the Exchange's ability to conduct CMC matching sessions. Finally, the Exchange proposes to amend Rule 11.28(c) to state that at the conclusion of each CMC MOC Cut-Off Time, the Cboe Auction Feed will disseminate the total size of all buy and sell orders matched in CMC, and that such information will only be for that particular CMC matching session and would not include the total size of matched buy and sell orders from any prior CMC MOC Cut-Off Time.

The proposed CMC MOC Cut-Off Times are based on Member feedback.[10] Specifically, in response to CMC's noticeable increase in executed volume (discussed *infra*), there has been heightened interest in CMC from both existing users, as well as potential new users of CMC (collectively ''Members''). Collectively, these Members have requested certain enhancements to CMC that would encourage existing users to increase their utilization of CMC, as well encourage prospective users to begin using CMC. Namely, Members have expressed a desire for: (1) CMC MOC Cut-Off Times earlier in the trading day, and prior to the current CMC MOC Cut-Off Time of 3:49 p.m.; and (2) a CMC MOC Cut-Off Time closer to Nasdaq's MOC cut-off time of 3:55 p.m.[11] Accordingly, both the Exchange and its Members believe that these additional CMC MOC Cut-Off Times will help to position CMC as more viable alternative to the primary exchanges' closing auctions and off-exchange closing price services. Additionally, multiple CMC MOC Cut-Off Times will make CMC more appealing to a larger segment of market participants by providing Members with different trading strategies and technical and operational capabilities more flexibility in how they manage their market-on-close (''MOC'') and closing price orders.

Procedural Background

On May 5, 2017, the Exchange filed a proposed rule change to adopt CMC, a match process for MOC orders in non-BZX listed securities and on December 1, 2017, filed Amendment No. 1 [12] to that proposal (the ''Original Proposal'').[13] On January 17, 2018, the Commission, acting through authority delegated to the Division of Trading and Markets,[14] approved the Original Proposal (''Approval Order'').[15] On January 31, 2018, NYSE Group, Inc. (''NYSE'') and the Nasdaq Stock Market LLC (''Nasdaq'') filed petitions for review of the Approval Order (''Petitions for Review''). Pursuant to Commission Rule of Practice 431(e),[16] the Approval Order was stayed by the filing with the Commission of a notice of intention to petition for review.[17] On March 1, 2018, pursuant to Commission Rule of Practice 431, the Commission issued a scheduling order granting the Petitions of Review of the Approval Order, and provided until March 22, 2018, for any party or other person to file a written statement in support of, or

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 100466, 89 FR 57175 (July 12, 2024).

[6] Amendment No. 2 amended and superseded Amendment No. 1, which replaced and superseded the proposed rule change as originally filed. Amendment No. 2 is available on the Commission's website at: *https://www.sec.gov/comments/sr-cboebzx-2024-032/srcboebzx2024032.htm.*

[7] In Amendment No. 3, the Exchange revised BZX Rule 11.28(a) to correct an erroneous reference to ''five'' total CMC matching sessions. Amendment No. 3 is available on the Commission's website at: *https://www.sec.gov/comments/sr-cboebzx-2024-032/srcboebzx2024032.htm.*

[8] This Section II reproduces Amendment No. 2, as filed by the Exchange. Amendment No. 3 does not make any revisions to Section II.

[9] Hereinafter, all times referenced are in Eastern Time.

[10] The Exchange notes that its Amendment No. 1 also proposed an MOC Cut-Off Time of 3:58 p.m. The Exchange, however, has removed the 3:58 MOC Cut-Off Time from its proposal reflected in this Amendment No. 2, and instead now proposes additional MOC Cut-Off Times of 3:15 p.m., 3:30 p.m., and 3:54 p.m. (the 3:54 p.m. ET session is limited to Nasdaq-listed securities only).

[11] *See* Nasdaq Rule 4702(b)(11)(A), ''A ''Market On Close Order'' or ''MOC Order'' is an Order Type entered without a price that may be executed only during the Nasdaq Closing Cross. Subject to the qualifications provided below, MOC Orders may be entered between 4 a.m. ET and immediately prior to 3:55 p.m. ET. MOC Orders may be cancelled and/or modified between 4 a.m. ET and immediately prior to 3:50 p.m. ET. Between 3:50 p.m. ET and immediately prior to 3:58 p.m. ET, an MOC Order can be cancelled and/or modified only if the Participant requests that Nasdaq correct a legitimate error in the Order (*e.g.,* Side, Size, Symbol, or Price, or duplication of an Order). MOC Orders cannot be cancelled or modified at or after 3:58 p.m. ET for any reason. An MOC Order shall execute only at the price determined by the Nasdaq Closing Cross.''

[12] The only change in Amendment No. 1 was to rename the proposed closing match process as Cboe Market Close. Per the Commission, because Amendment No. 1 was a technical amendment and did not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 was not subject to notice and comment.

[13] *See* Securities Exchange Act Release No. 34–80683 (May 16, 2017), 82 FR 23320 (May 22, 2017) (SR–Bats–BZX–2017–34) (Notice of Filing of a Proposed Rule Change to Introduce Bats Market Close, a Closing Match Process for Non-BZX Listed Securities Under New Exchange Rule 11.28).

[14] 17 CFR 200.30–3(a)(12).

[15] *See* Securities Exchange Act Release No. 34–82522 (January 17, 2018), 83 FR 3205 (January 23, 2018) (SR–BatsBZX–2017–34) (Notice of Filing of Amendment No. 1 and Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce Cboe Market Close, a Closing Match Process for Non-BZX Listed Securities Under New Exchange Rule 11.28).

[16] 17 CFR 201.431(e).

[17] *See* Letter to Christopher Solgan, Assistant General Counsel, Cboe Global Markets, Inc. (Jan. 24, 2018) (providing notice of receipt of notices of intention to petition for review of delegated action and stay of order), available at: *https://www.sec.gov/rules/sro/batsbzx/2018/sr-batsbzx-2017-34-letter-from-secretary-to-cboe.pdf.*

in opposition to, the Approval Order.[18] On April 12, 2018, NYSE and Nasdaq submitted written statements opposing the Approval Order and BZX submitted a statement in support of the Approval Order.[19] On October 4, 2018, BZX filed Amendment No. 2 [20] to the Original Proposal.

The Commission conducted a de novo review of the CMC proposal and associated public record, including Amendment No. 2, the Petitions for Review, and all comments and statements submitted by certain exchanges, issuers, and other market participants,[21] to determine whether the proposal was consistent with the requirements of the Act and the rules and regulations issued thereunder that are applicable to a national securities exchange.[22] The Commission noted that under Rule 700(b)(3) of the Commission's Rule of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change.'' [23]

Importantly, after reviewing the entire record, the Commission concluded that BZX met its burden to show that the proposed rule change was consistent with the Act, and pursuant to its January 21, 2020, order, set aside the Approval Order and approved BZX's CMC proposal, as amended (''Final Approval Order'').[24] Notably, the Commission stated that the record ''demonstrate[d] that Cboe Market Close should introduce and promote competitive forces among national securities exchanges for the execution of MOC orders'' [25] and that ''the record demonstrate[d] that Cboe Market Close should not disrupt the closing auction price discovery process nor should it materially increase the risk of manipulation of official closing prices''.[26]

Subsequently, on August 5, 2022, the Exchange filed a proposed rule change to amend Rule 11.28(a) to extend CMC's MOC Cut-Off Time from 3:35 p.m. to 3:49 p.m. (''CMC Amendment'').[27] On October 4, 2022, the Commission, acting through authority delegated to the Division of Trading and Markets, designated a longer period within which to take action on the Exchange's CMC Amendment.[28] Later, on November 11, 2022, BZX filed Amendment No. 1 to its CMC Amendment, and the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change as modified by Amendment No. 1.[29] Finally, on February, 9, 2023, the Commission, approved the proposed CMC Amendment (''CMC Amendment Approval Order'').[30]

In approving the CMC Amendment, the Commission stated that the proposal was consistent with Section 6(b)(5) of the Act,[31] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; as well as Section 6(b)(8) of the Act,[32] which requires that the rules of a national securities exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

For the reasons discussed more fully below, the Exchange believes that when applying the Commission's analysis in the Final Approval Order and the CMC Amendment Approval Order, to the current proposal, such review would similarly conclude that this proposal is consistent with the Act.

Increased Volume and New Demand for CMC

On March 10, 2023, the Exchange moved its CMC MOC Cut-Off Time from 3:35 p.m. to 3:49 p.m. As illustrated in Figure 1 below, since implementing the 3:49 p.m. CMC MOC Cut-Off Time, CMC has experienced noticeable growth in its trading volume, rising modestly beginning in May 2023 and more remarkably between September 2023 and November 2023, ultimately reaching a record-high of 155 million shares traded in December 2023. Based on CMC's growing usage, the Exchange has received various feedback from both existing CMC users and prospective CMC users. Collectively, these Members have requested certain enhancements to CMC that would encourage existing users to increase their utilization of CMC, as well encourage prospective users to begin using CMC. Namely, Members have expressed a desire for: (1) CMC MOC Cut-Off Times earlier in the trading day, and prior to the current CMC MOC Cut-Off Time of 3:49 p.m.; and (2) a CMC MOC Cut-Off Time closer to Nasdaq's MOC cut-off time of 3:55 p.m.

As noted, both the Exchange and its Members believe that these enhancements will help to position CMC as more viable alternative to the primary exchanges' closing auctions and off-exchange closing price services. Additionally, multiple CMC MOC Cut-Off Times will make CMC more appealing to a larger segment of Members by providing Members with different trading strategies and technical and operational capabilities more flexibility in how they manage their MOC and closing price orders.

[18] *See* Securities Exchange Act Release No. 82794, 83 FR 9561 (Mar. 6, 2018). On March 16, 2018, the Office of the Secretary, acting by delegated authority, issued an order on behalf of the Commission granting a motion for an extension of time to file statements on or before April 12, 2018. *See* Securities Exchange Act Release No. 82896, 83 FR 12633 (Mar. 22, 2018).

[19] *See* Statement of NYSE Group, Inc., in Opposition to the Division's Order Approving a Rule to Introduce Cboe Market Close (''NYSE Statement''); Statement of the Nasdaq Stock Market LLC in Opposition to Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Introduce Cboe Market Close (''Nasdaq Statement''); and Statement of Cboe BZX Exchange, Inc., in support of Commission Staff's Approval Order (''BZX Statement''), available at: *https://www.sec.gov/comments/sr-batsbzx-2017-34/batsbzx201734.htm.*

[20] *See* Securities Exchange Act Release No. 34–84670 (November 28, 2018), 83 FR 62646 (December 4, 2018) (SR–BatsBZX–2017–34) (''Notice of Filing of Amendment No. 2 to Proposed Rule Change to Introduce Cboe Market Close, a Closing Match Process for Non-BZX Listed Securities Under New Exchange Rule 11.28'').

[21] *See* ''Statements on File No. SR–BatsBZX–2017–34'', available at: *https://www.sec.gov/comments/batsbzx-2017-34/batsbzx201734.htm.*

[22] *See* Securities Exchange Act Release No. 34–88008 (January 21, 2020), 85 FR 4726 (January 27, 2020) (SR–BatsBZX–2017–34) (''Order Setting Aside Action by Delegated Authority and Approving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, To Introduce Cboe Market Close, a Closing Match Process for Non-BZX Listed Securities Under New Exchange Rule 11.28'').

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *See* Securities Exchange Act Release No. 34–95529 (August 17, 2020), 87 FR 52092 (August 24, 2022) (SR–CboeBZX–2022–038).

[28] *See* Securities Exchange Act Release No. 34–95967 (October 4, 2022), 87 FR 61425 (October 11, 2022) (SR–CboeBZX–2022–038).

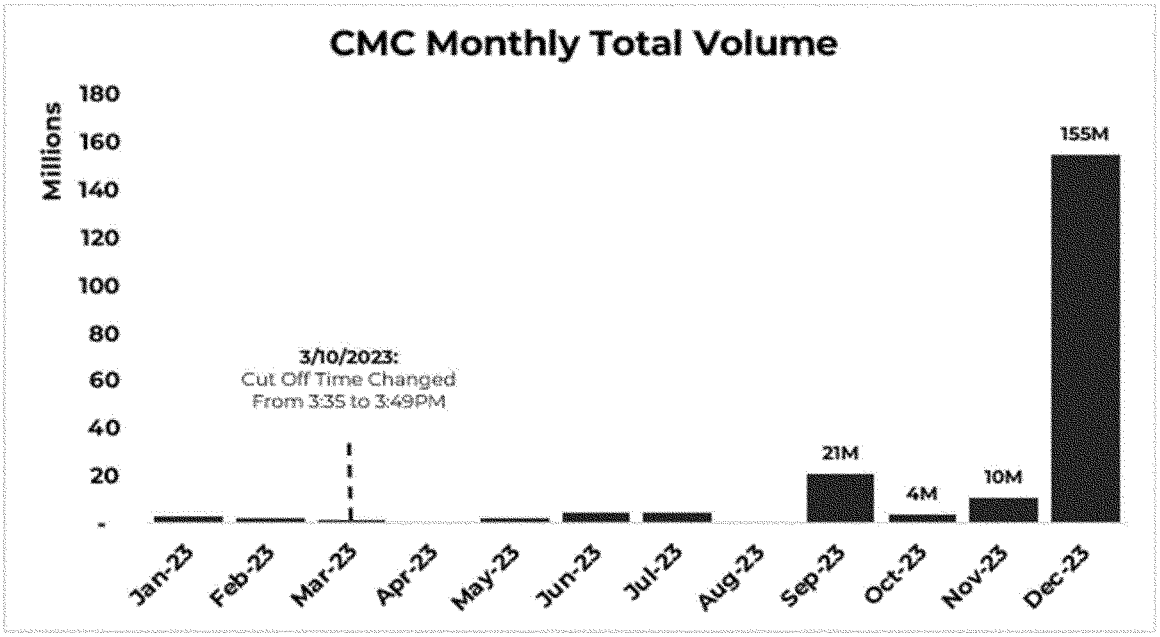
[29] *See* Securities Exchange Act Release No. 34–96359 (November 18, 2022), 87 FR 72537 (November 25, 2022) (SR–CboeBZX–2022–038).

[30] *See* Securities Exchange Act Release No. 34–96861 (February 9, 2023), 88 FR 9940 (February 15, 2023) (SR–CboeBZX–2022–038).

[31] 15 U.S.C. 78f(b)(5).

[32] 15 U.S.C. 78f(b)(8).

Figure 1 (Source: Internal Exchange Data)



Proposed Functionality

Accordingly, BZX proposes to amend Rule 11.28(a) to add three CMC MOC Cut-Off times. These MOC Cut-Off times would be in addition to the existing CMC MOC Cut-Off time of 3:49 p.m., for a total of four matching sessions: 3:15 p.m. (new), 3:30 p.m. (new), 3:49 p.m. (current), 3:54 p.m. (the 3:54 p.m. matching session is for Nasdaq-listed securities only). MOC orders may be entered for each matching session up to the relevant CMC MOC Cut-Off Time, beginning each day at 6:00 a.m.[33] Members will have the ability to specify on their order instructions which CMC session(s) they wish to participate in. For orders that specify a willingness to match in multiple matching sessions, any unfilled quantity from an earlier session will carry forward to the next session(s). Any unfilled quantity remaining after a Member's specified final matching session will be canceled back to the Member. To illustrate the proposed functionality, consider the following examples.

Example 1: Order Indicates Matching in a Single Session

Order 1: Buy 100 @MKT—CMC Session: 3:49 p.m., Timestamp: 3:00:00 p.m.

Order 2: Sell 100 @MKT—CMC Session: 3:15 p.m., 3:30 p.m., 3:49 p.m., Timestamp: 3:01:00 p.m.

Results:

- Order 1 will not match with Order 2 in the 3:15 p.m. or 3:30 p.m. session. Order 2's unfilled quantity of 100 shares will first carry forward from the 3:15 session, then again from the 3:30 session, and finally to the 3:49 session.
- Order 1 and Order 2 match in the 3:49 p.m. session for 100 shares at the closing price.

Example 2: Order Indicates Matching in Multiple Sessions

Order 1: Buy 500 @MKT—CMC Session: 3:15 p.m., 3:30 p.m., 3:49 p.m., Timestamp: 3:00:00 p.m.

Order 2: Sell 100 @MKT—CMC Session: 3:30 p.m., Timestamp: 3:01:00 p.m.

Order 3: Sell 100 @MKT—CMC Session: 3:15 p.m., Timestamp: 3:02:00 p.m.

Order 4: Sell 100 @MKT—CMC Session: 3:49 p.m., Timestamp: 3:03:00 p.m.

Results:

- Order 1 and Order 3 match in the 3:15 p.m. session for 100 shares at the closing price and Order 1's 400 remaining shares are carried over to the next session.
- Order 1 and Order 2 match in the 3:30 p.m. session for 100 shares at the closing price and Order 1's 300 remaining shares are carried over to the next session.
- Order 1 and Order 4 match in the 3:49 p.m. session for 100 shares at the closing price and Order 1's 200 remaining shares are canceled back.

Example 3: Order's Unfilled Quantity Retains Its Original Timestamp for Priority Purposes

Order 1: Buy 500 @MKT—CMC Session: 3:15 p.m., 3:30 p.m., Timestamp: 3:00:00 p.m.

Order 2: Buy 100 @MKT—CMC Session: 3:30 p.m., Timestamp: 3:01:00 p.m.

Order 3: Sell 100 @MKT—CMC Session: 3:15 p.m., Timestamp: 3:02:00 p.m.

Order 4: Sell 100 @MKT—CMC Session: 3:30 p.m., Timestamp: 3:03:00 p.m.

Results:

- Order 1 and Order 3 match in the 3:15 p.m. session for 100 shares at the closing price and Order 1's 400 remaining shares are carried over to the next session.
- Order 1 [34] and Order 4 match in the 3:30 p.m. session for 100 shares at the closing price and Order 1's 300 remaining shares are canceled back.
- Order 2's 100 shares are unfilled and canceled back at 3:30 p.m.

As reflected in the proposed edits to Rule 11.28, Interpretations and Policies .02, the Exchange also wishes to clarify that the reference to an ''impairment''

[33] For instance, an MOC order specifying that it wishes to participate in the proposed 3:15 CMC MOC Cut-Off Time must be entered, cancelled, or replaced prior to 3:15 p.m. Similarly, a MOC order specified to participate in the proposed 3:30 CMC MOC Cut-Off Time may be entered, cancelled, or replaced anytime between 6:00 a.m. and 3:29:59 p.m.

[34] Note that Order 1 in this scenario retains its priority over Order 2. Because Order 1 and Order 2 are both un-priced MOC orders, time priority takes precedent, with Order 1 maintaining its queue priority versus Order 2. *See* Rule 11.12, Priority of Orders, which provides that orders are ranked based on price, then time.

refers to an impairment of an Exchange's matching engine responsible for the CMC matching process—*i.e.,* where a matching engine responsible for conducting the CMC matching process has become unresponsive or crashed and is unable to process Members' orders. With this in mind, the Exchange notes that when an Exchange matching engine responsible for the CMC process is impaired prior to or after a CMC MOC Cut-Off Time but prior to completion of CMC's closing match process in a security, the action taken by the Exchange on orders designated to participate in CMC is dependent on Member instruction. Specifically, and as detailed in the Exchange's technical specifications,[35] Members may elect ''Cancel on Disconnect = Yes'' or ''Cancel on Disconnect = No''.[36] When a Member elects ''No'', the Exchange will allow a Member's orders to remain open during a matching engine impairment; provided, however, if an impairment exceeds five-minutes *all* orders will be cancelled unconditionally, regardless of a Member's instruction. Importantly, even when a Member has elected ''No'', a Member may still cancel their order during a matching engine impairment and prevent their MOC order(s) from participating in CMC once the matching engine failover is completed. When a Member elects ''Yes'', all open orders associated with a session are immediately cancelled in the event of a matching engine impairment.

By way of illustration, assume a Member has submitted an order to participate in the 3:15 CMC MOC Cut-Off Time, has selected ''Cancel on Disconnect = No'', a matching engine impairment occurs at 3:14 p.m., and an impairment impacting the CMC matching process lasts less than five-minutes. In this instance, the Member's MOC order will remain open, and post matching engine failover, the Exchange will simply conduct the CMC session that should have occurred at 3:15 p.m. and attempt to match the Member's MOC order.

To further illustrate, assume a Member has designated its MOC order to participate in multiple CMC MOC Cut-Off Times (*e.g.,* 3:30, 3:49, and 3:54), has also selected Cancel on Disconnect = NO, a matching engine impairment impacting the CMC process occurs at 3:29 p.m., and the impairment last less than five-minutes. In this instance, the Member's MOC order will remain open, and post matching engine failover, the Exchange will simply conduct the CMC session that should have occurred at 3:30 p.m. and attempt to match the Member's MOC order. Should the Member's 3:30 p.m. MOC order not be matched, or only partially filled, the Member's MOC order will proceed to the 3:49 matching session.

In addition, as is the case with the current functionality, if the Exchange becomes impaired after completing the closing match process in a security, it will retain all matched MOC orders and execute those orders at the official closing price once the impairment is resolved.

Finally, the Exchange wishes to amend Rule 11.28(c) to clarify that even with the proposed multiple CMC MOC Cut-Off Times, the total size of matched buy and sell orders disseminated via the Cboe Auction Feed will be limited to that *particular* CMC matching session—*i.e.,* the information disseminated for the 3:30 p.m. CMC matching session will include the total size of matched buy and sell orders for the 3:30 p.m. CMC MOC Cut-Off Time only, and would not aggregate the total sizes of matched buy and sell orders from the prior 3:15 p.m. CMC MOC Cut-Off Time.

The Proposed 3:15 p.m. and 3:30 p.m. MOC Cut-Off Times

Members requesting CMC MOC Cut-Off Times earlier in the trading day have expressed that these additional CMC MOC Cut-Off Times will provide them more flexibility in managing their MOC and closing price order flow. For instance, some Members maintain multiple internal trading desks, each managing different types of order flow and trading strategies. One trading desk may manage orders that its traders actively trade throughout the trading day leading up to the close, making CMC MOC Cut-Off Times closer to 4:00 p.m. more valuable for that trading desk. Separately, one of the Member's other trading desks may typically execute orders guaranteeing the closing price or perhaps manage orders on behalf of index funds or ETF providers, that are often benchmarked to the official closing price. For this workflow, a Member may be agnostic as to when it commits MOC orders to CMC, a primary exchange's closing auction, or an off-exchange closing price service, and may view the ability to commit such order flow to CMC earlier in the trading day at 3:15 p.m. or 3:30 p.m. as a valuable tool to help them execute orders and de-risk their trading risk earlier in the trading day.

Additionally, Members have indicated the proposed 3:15 p.m. and 3:30 p.m. CMC MOC Cut-Off Times will also assist them in managing any technological and operational risk associated with managing high volumes of order flow. Notional trading and trading volatility are typically at their highest towards the end of Regular Trading Hours. During this time, Members systems may be managing a significant number of MOC or closing price orders. Unless the Member is attempting to beat the closing price by trading such orders for as long as possible heading into the close, committing such orders to CMC earlier in the trading day will enable them to reduce the number of MOC and closing price orders their trading systems must manage. Notably, the Exchange noted in its CMC Amendment that today's market participants, including CMC's existing users, were technologically equipped [37] to handle CMC's current 3:49 p.m. CMC MOC Cut-Off Time. While this remains the case today, the recent growth in CMC's executed volume has attracted potential new users with trading strategies, and technological and operational capabilities, that have presented new use cases for CMC.

Overall, by having the ability to submit orders to the proposed 3:15 p.m., 3:30 p.m., and 3:49 p.m. CMC MOC Cut-Off Times, Members will have a greater opportunity of being matched earlier in

[35] *See* ''Cboe US Equities BOE Specification,'' pg. 74, ''Cancel on ME Disconnect,'' available at: *https://cdn.cboe.com/resources/membership/Cboe_US_Equities_BOE_Specification.pdf; See also* ''Cboe US Equities FIX Specification,'' pg. 66, ''Cancel on ME Disconnect,'' available at: *https://cdn.cboe.com/resources/membership/Cboe_US_Equities_FIX_Specification.pdf.*

[36] The Exchange notes that this field cannot be left blank, and that if a Member does not designate a value, the default is, ''Cancel on Disconnect = YES''. Furthermore, during an impairment, no new Exchange orders—including CMC orders—are accepted.

[37] As a general matter, today's market participants, including CMC users, rely on electronic smart order routers, order management systems, and trading algorithms, which make routing and trading decisions on an automated basis, in times typically often measured in microseconds. *See generally* ''Staff Report on Algorithmic Trading in U.S. Capital Markets'' (August 5, 2020), available at *https://www.sec.gov/tm/reports-and-publications/special-studies/algo_trading_report_2020* (''Algorithmic Trading Report'') (''Over the past decade, the manual handling of institutional orders is increasingly rare and has been replaced by sophisticated institutional order execution algorithms and smart order routing systems.'') (''The secondary market for U.S.-listed equity securities that has developed within this structure is now primarily automated. The process of trading has changed dramatically primarily as a result of developments in technologies for generating, routing, and executing orders, as well as by the requirement imposed by law and regulation.'') (''Modern equity markets are connected in part by the data flowing between market centers. An enormous volume of data is available to market participants. In recent years, there has been an exponential growth in the amount of market data available, the speed with which it is disseminated, and the computer power used to analyze and react to price movements.'').

the trading day before potentially needing to re-route their unmatched MOC orders to the primary exchanges or off-exchange closing price offerings. On high-volume order days—*e.g.* Russell Rebalance Days where trading volume is high—the utility of being able to de-risk closing cross order volume earlier in the trading day is both a rational trading decision and a prudent way for Members to manage their operational and technological risk as such event days are marked by high volume and volatility that may utilize a significant portion of some Members' systems capacity.

The Proposed 3:54 p.m. CMC MOC Cut-Off Time

The proposed 3:54 p.m. CMC MOC Cut-Off Time applies only to orders in Nasdaq-listed securities. Members requesting the CMC MOC Cut-Off Time of 3:54 p.m. have indicated that this CMC MOC Cut-Off Time will help to better align CMC with Nasdaq's MOC cut-off time of 3:55 p.m., thereby helping to make CMC a more viable alternative to Nasdaq's closing auction.

As noted in SR–CboeBZX–2022–038,[38] today's market participants, including users of CMC, are technologically equipped [39] to handle a CMC MOC Cut-Off Time one-minute prior to the primary exchange's MOC cut-off time (here, Nasdaq's MOC cut-off time of 3:55 p.m.). As a general matter, today's market participants, including CMC users, rely on electronic smart order routers, order management systems, and trading algorithms, which make routing and trading decisions on an automated basis, in times typically measured in microseconds. In this regard, the Exchange believes that if a CMC user receives a message that its MOC order was not matched in CMC, such CMC user will have more than enough time to reroute its MOC order(s) to Nasdaq. Importantly, the Exchange has confirmed with both existing and prospective CMC users that based on their technological capabilities (discussed *infra*), they would have ample time [40] to reroute unmatched CMC orders from the proposed 3:54 CMC MOC Cut-Off Time to Nasdaq by 3:55 p.m. in order to participate in the Nasdaq closing auction.[41] Furthermore, Members that may not possess their own internal electronic trading and routing capabilities to self-manage the proposed 3:54 p.m. CMC MOC Cut-Off Time rely on third-party solutions [42] and broker dealers that offer high-speed routing and trading solutions to manage their order flow, including their CMC orders.

Similar to the rationale for extending CMC's MOC Cut-Off Time from 3:35 p.m. to 3:49 p.m., Members desire a CMC MOC Cut-Off Time that is closer to Nasdaq's MOC cut-off time and the end of Regular Trading Hours [43] so they can retain control of their trading for a longer period of time.[44] By being able to trade closer to the Nasdaq's MOC cut-off time and the end of Regular Trading Hours, Members have more opportunities to seek better priced liquidity for their orders in a variety of ways and reducing the size of their outstanding orders they may need to commit to CMC or the primary auctions, including but not limited to, finding contra-side liquidity in the marketplace and trading directly against such interest, or guaranteeing a customer order at a price better than the national best bid or offer by committing capital to an order and filling it in a principal capacity, as well as continuing to trade algorithmically into the close. By adding the CMC MOC Cut-Off Time of 3:54 p.m., CMC will be better positioned to serve as a viable option for market participants to consider when deciding which venues to route their MOC orders in Nasdaq-listed securities, thus enhancing intermarket competition.

In support of the above, Figure 2 shows the total average *daily* volume across all market centers, from 3:30 p.m. to 4:00 p.m. in 30-second intervals, and illustrates the Nasdaq MOC cut-off time. As illustrated, at Nasdaq's 3:55 p.m. MOC cut-off time, and 4:00 p.m. market

[38] *Supra* note 28.

[39] *Supra* note 36.

[40] The CMC Closing Match Process—*i.e.,* the matching of all buy and sell MOC orders entered into the System by time priority at the MOC Cut-Off Time, the electronic notification to Members of any unmatched MOC orders, and the dissemination by the Exchange of the total size of all buy and sell orders matched through CMC via the Cboe Auction Feed—generally occurs within *microseconds.* More specifically, while the duration may vary, the total matching process typically takes a fraction of second (*e.g.,* ~948 microseconds), with the maximum being around 1-second. With these timeframes in mind, a Member in most instances currently knows its paired CMC quantity no later than 3:49:01 p.m., leaving the user at least fifty-nine-seconds (59) to reroute any unpaired MOC orders to the primary exchanges' closing auctions. As noted, the speed of today's trading technology is typically measured in microseconds, making fifty-nine-seconds (59) a significant amount of time for a user to make an automated trading decision. For reference, a microsecond is 1-millionth of a second.

[41] As it did for its proposal to move the CMC MOC Cut-Off Time to 3:49 p.m. from 3:35 p.m. (*See* SR–CboeBZX–2022–038) the Exchange discussed the proposed amendment with both current CMC users, as well as potential new users. By way of background, a large majority of CMC users are mid-size, regional broker dealers that utilize third-party front-end providers or broker-dealers that provide them with electronic and automated trading solutions such as algorithms and smart order routers, which they use to access CMC. Specifically, the Exchange discussed the proposed amendment—namely, the proposed 3:15 p.m., 3:30 p.m., and 3:54 p.m. MOC Cut-Off Times—with CMC's users, two (2) third-party providers whose end users are responsible for 100% of CMC's volume. Importantly these providers indicated that the automated routing and trading solutions they offer to CMC's users can appropriately manage the proposed CMC MOC Cut-Off Times, including the proposed 3:54 p.m. CMC MOC Cut-Off Time. Additionally, the Exchange discussed the proposed CMC MOC Cut-Off Times with potential new users of CMC (4 large, multinational bulge bracket broker-dealers). These market participants indicated that proposed CMC MOC Cut-Off Times would likely encourage them to use CMC as part of their trading and that they either independently maintained high-speed routing and trading capabilities, or utilized third-party technology providers or broker-dealers that provide them with such solutions. As such, these market participants did not have any operational or technological concerns with the proposed CMC MOC Cut-Off Times—particularly the 3:54 p.m. CMC MOC Cut-Off.

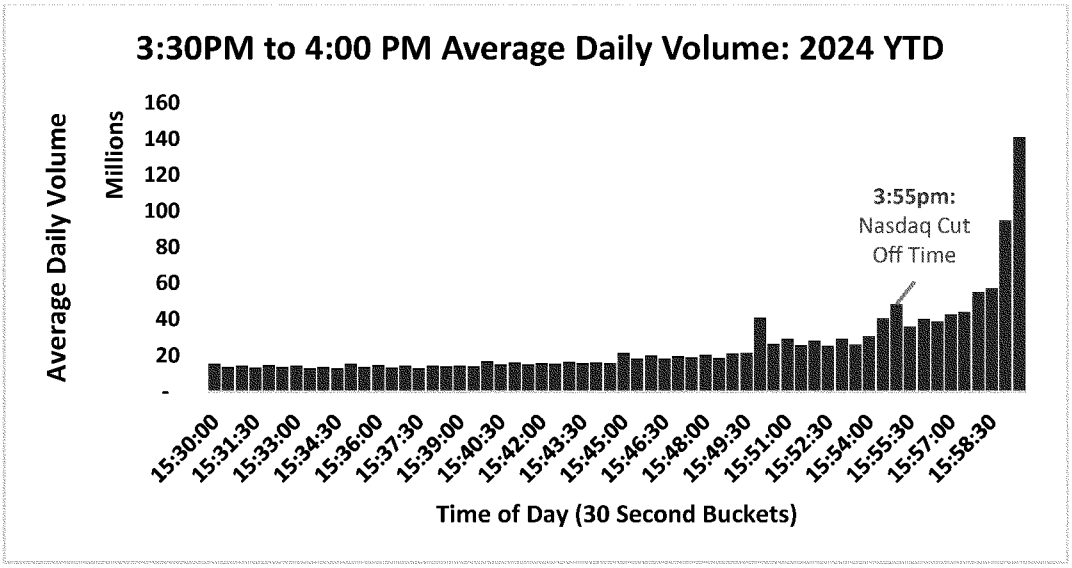
[42] As a general matter, third-party technology providers and broker-dealers with electronic trading offerings provide automated trading and routing products and services to market participants that may not possess their own proprietary technology, or simply choose to leverage third-party solutions they deem superior to their own internal technology. By way of example, portfolio managers responsible for reweighting their managed funds may not possess internal automated routing and algorithmic trading capabilities, and instead utilize third-party solutions enabling them to trade on an automated basis. As such, the proposed CMC MOC Cut-Off Time of 3:54 p.m. is not likely to negatively impact market participants who may not possess the internal capabilities to reroute unmatched CMC MOC orders to the primary exchanges' closing auctions. The Exchange further notes that the utilization of third parties and broker-dealers for technological trading solutions was even noted by the Commission in its Algorithmic Trading Report. *Supra* note 36 (''Institutions that do not create their own algorithms generally use algorithms provided to them by institutional brokers.'') (''Brokers are tasked by their customers with finding liquidity in a complex, fragmented market, achieving best execution, and minimizing information leakage and other implicit costs. To try to meet these goals, brokers use, and offer to their customers, a wide range of execution algorithms.'').

[43] The term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time. *See* Rule 1.2 (w), definition of, ''Regular Trading Hours.''

[44] The Exchange notes that part of its rationale for adding the proposed 3:54 p.m. MOC Cut-Off Time is substantively identical to that of other exchanges moving their MOC cutoff times to later in the trading day, namely, NYSE and Nasdaq. See Securities Exchange Act Release No. 34–84454 (October 19, 2018), 83 FR 18580 (October 25, 2018) (SR–Nasdaq–2018–068) (''Specifically, the Exchange believes that extending the cutoff times for submitting on close orders will allow market participants to retain control over their orders for a longer period of time, and thereby assist those market participants in managing their trading at the close.''); see also Securities Exchange Act Release No. 34–84804 (December 12, 2018), 83 FR 64910 (December 18, 2018) (SR–NYSE–2018–58) (''The Exchange believes that extending the cut-off times for entry and cancellation of MOC and LOC Orders, cancellation of CO orders, as well as when the Exchange would begin disseminating Order Imbalance Information for the close would . . . allow market participants to retain control over their orders for a longer period of time, and thereby assist those market participants in managing their trading at the close.'').

close, there is a noticeable increase in traded volume in the overall marketplace, with volume relatively flat in the overall marketplace prior to those times. This analysis supports the Exchange's assertion that certain market participants do indeed prefer cut-off times later in the trading day, as volumes tend to significantly increase as the closing auctions approach. Therefore, the Exchange now seeks to implement the MOC Cut-Off Time of 3:54 p.m. to better align CMC with Nasdaq's 3:55 p.m. MOC cut-off time. By implementing this change, the Exchange believes that CMC will be better positioned as a viable alternative to Nasdaq's closing auction, thereby ''foster[ing] price competition and . . . decreas[ing] costs for market participants.'' [45]

Figure 2 (Source: Internal Exchange Data)



2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[46] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [47] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [48] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that the addition of the proposed CMC MOC Cut-Off Times would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed times would offer CMC users increased flexibility in how to manage their MOC and closing price order flow and their associated trading, and their technological and operational risk, as well help to better position CMC to serve as a viable alternative to the primary exchanges' closing auctions, and off-exchange closing price mechanisms. For instance, by having the option to allocate their MOC order flow across various CMC MOC Cut-Off Times, Members will have the opportunity to receive matches earlier in the trading day, thereby reducing their trading risk, as well as the volume of orders their systems may need to handle at once, thereby reducing operational and technology risk.

Furthermore, the Exchange has received feedback from Members that while moving the single CMC MOC Cut-Off Time from 3:35 p.m. to 3:49 p.m. (six-minutes prior to Nasdaq's MOC cut-off time) has been helpful in managing their MOC orders in NYSE-listed securities, Members desire a CMC MOC Cut-Off Time that more closely aligns with the current Nasdaq MOC cut-off time of 3:55 p.m. In this regard, the proposed 3:54 p.m. CMC MOC Cut-Off time will enable Members to actively trade orders in Nasdaq-listed securities for a longer period as they will no longer have to submit their MOC orders to BZX in order to participate in CMC at 3:49 p.m.—*i.e.,* six-minutes prior to Nasdaq's cut-off time. Rather, Members will have until 3:53:59 to submit MOC orders to BZX in order to participate in CMC, which provides Members an additional four minutes and fifty-nine seconds to actively trade Nasdaq-listed securities. As discussed above, if a Member's MOC orders are not matched in CMC the Member will still have ample time to reroute any unmatched to CMC MOC orders to Nasdaq's closing auction, thereby making CMC a more competitive alternative to Nasdaq's closing auction.

The Exchange notes that the primary market participants that would utilize the proposed 3:54 p.m. CMC MOC Cut-Off Time are technologically equipped [49] to re-route any unmatched

[45] *Supra* note 21.
[46] 15 U.S.C. 78f(b).
[47] *Supra* note 30.
[48] *Id.*
[49] *Supra* note 36.

CMC MOC orders in Nasdaq-listed securities to Nasdaq prior to Nasdaq's 3:55 p.m. MOC cut-off time. Specifically, Members are either technologically self-equipped to manage the proposed CMC MOC-Cut Off Times, or currently rely on third-party solutions that provide them with the technological capability to appropriately manage the proposed CMC MOC Cut-Off Times and timely re-route unmatched CMC orders participate in Nasdaq's closing auction.

Similarly, given the widespread use of routing and trading technology in today's markets, it is also likely that potential new CMC users currently possess the technological capabilities to manage the proposed CMC MOC Cut-Off Times, and if they do not, they could similarly rely on third-party providers [50] with high-speed technology offerings. Alternatively, new CMC users lacking high-speed trading and routing technology can simply utilize the earlier CMC MOC Cut-Off Times of 3:15 p.m. and 3:30 p.m., providing themselves more flexibility to reroute unmatched CMC orders to the primary exchanges.

The Exchange also notes that as CMC volume has increased, prospective new users [51] with different trading strategies and different technological and operational capabilities have expressed interest in utilizing CMC. This segment of Members has expressed a desire for earlier CMC MOC Cut-Off Times (*i.e.,* 3:15 p.m. and 3:30 p.m.), which they note will assist them in more efficiently managing their workflows and trading risk. For instance, some of these Members would prefer to commit certain of their closing price orders—*e.g.,* guaranteed close orders—to a closing auction mechanism earlier in the trading day. By submitting such orders to CMC and potentially receiving a match, a Member can reduce its trading risk. Additionally, by having the ability to allocate MOC orders across various CMC MOC Cut-Off Times, Members can more capably manage their closing order volume and reduce the number of messages that their systems must manage and process heading into market close, when trading volume and volatility are typically at their highest. As such, Members will be better able to manage any operational or technology risk [52] associated with a high order volume day such as index rebalance days (*e.g.,* Russell or MSCI index rebalance days) or unexpected high volatility trading days, as well as better manage the number of MOC orders a Member may need to send to an exchange or off-exchange venue at any one time.[53]

As with existing CMC users, given the widespread use of routing and trading technology in today's markets, it is likely that potential new CMC users also currently possess the technological capabilities to manage the proposed CMC MOC Cut-Off Times, and if they do not, could similarly rely on third-party providers [54] with high-speed technology offerings. Alternatively, new CMC users lacking high-speed trading and routing technology can simply utilize the earlier CMC MOC Cut-Off Times of 3:15 p.m. and 3:30 p.m., providing themselves more flexibility to reroute unmatched CMC orders to the primary exchanges. Regardless, the proposed earlier MOC Cut-Off Times occur much earlier in time than the primary exchanges' MOC cut-off times, giving the users of the proposed 3:15 p.m. and 3:30 p.m. MOC Cut-Off Times more than enough time to re-route their unmatched MOC orders to the primary exchanges' closing auctions; *i.e.,* thirty-five minutes/twenty minutes prior to the NYSE MOC cut-off time, respectively; and forty minutes/twenty minutes prior to the Nasdaq MOC cut-off time respectively.

As noted in its CMC Amendment, the Exchange continues to believe that the extension of cut-off times by the primary exchanges since CMC's approval in 2020 as well as the growth of off-exchange venues [55] with cut-off times in such close proximity to the end of Regular Trading Hours is indicative of Members' desires for such offerings. Logically, such a change in market structure would not have occurred if market participants did not already possess the operational and technological capabilities to effectively manage the multitude of cut-off times offered by the exchanges and off-exchange venues.

The Exchange also believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system because adding the proposed 3:54 p.m. CMC MOC Cut-Off Time would more closely align the CMC with the cut-off time in place for the Nasdaq closing auction. By adding the 3:54 p.m. CMC MOC Cut-Off Time, CMC has the ability to become a more comparable alternative to Nasdaq's closing auction, thereby ''foster[ing] price competition and . . . decreas[ing] costs for market participants.'' [56]

Importantly, even with the addition of the proposed CMC MOC Cut-Off Times, CMC will remove any perceived impact on Nasdaq's closing auction by publishing the number of matched order shares,[57] by individual security, in advance of Nasdaq's cut-off time. The total matched shares will still be disseminated by the Exchange free of

[50] *Supra* note 41.

[51] Prospective new users of CMC include both Members expressing interest in utilizing CMC for the first time, as well as new end-clients of Members that currently utilize CMC, and have inquired as to CMC's functionality, and the proposed enhancements.

[52] The Exchange notes that there are market participants that may not currently possess internal high-speed routing and trading technology. However, such market participants may, and likely already do, utilize routing and trading services offered by third-party providers or broker-dealers to handle and execute their orders electronically. Additionally, CMC is entirely voluntary and Members that do not possess internal high-speed trading and routing technology, or utilize third-party broker-dealers, are not required to use CMC. Accordingly, the Exchange believes that the proposed MOC Cut-Off Time is not likely to result in disparate treatment amongst CMC users and other market participants.

[53] In this regard, the Exchange notes that some Members have expressed that while they have ample time to redirect any unmatched CMC orders to the primary exchanges, internal or external message rate checks (*e.g.,* SEC Rule 15c3–5 risk checks or market center checks) may prohibit them from doing so if the Member is submitting a large volume of unmatched MOC orders at one time. In this regard, the proposed additional MOC Cut-Off Times may assist Members in allocating MOC orders across multiple CMC sessions, and should they be matched, reduce the volume of unmatched MOC orders the Member may have to submit to another market center.

[54] *Supra* note 41.

[55] For example, JP Morgan Securities' ATS, JPB–X, offers Close Price Match. This functionality utilizes a conditional order process to match orders and crosses them at the security's official closing prices, as determined by the closing auction at the primary exchange for a security. The Close Price Match time for an NMS stock is currently 30-seconds before the MOC cut-off time for that stock's primary exchange. Additionally, Instinet, LLC's ATS, CBX provides for three MOC Crossing Sessions, which consist of: a cross for securities where the primary listing exchange is the Nasdaq (''Nasdaq Cross''), a cross for securities where the primary listing exchange is the NYSE Arca (''Arca Cross''), and a cross for securities where the primary listing exchange is the NYSE (''NYSE Cross'') (collectively, ''MOC Crosses''). Each MOC Cross occurs two minutes prior to the relevant exchange's cut-off time; *i.e.* the Nasdaq Cross currently occurs at or near 3:53 p.m., the NYSE Cross at or near 3:48 p.m., and the Arca Cross at or near 3:57 p.m. *See* Form ATS–N, JPB–X, available at: *https://www.sec.gov/Archives/edgar/data/782124/000001961722000459/xslATS-N_X01/primary_doc.xml; see also* Form ATS–N, Instinet, LLC's ATS, CBX, available at: *https://sec.gov/Archives/edgar/data/31067/000031060722000009/xslATS-N_X01/primary_doc.xml.*

[56] *Supra* note 21.

[57] The Exchange notes that the Cboe Auction feed will disseminate the total matched shares only for the current CMC MOC Cut-Off Time. The Cboe Auction Feed will not disseminate the aggregate of total matched shares across each CMC matching session. For example, following the completion of the 3:30 p.m. CMC matching session, the Cboe Auction Feed message would disseminate matched shares only for the 3:30 p.m. CMC matching session, and would *not* disseminate the aggregate of number of matched shares from the prior 3:15 CMC matching session and the 3:30 p.m. CMC matching session.

charge via the Cboe Auction Feed, albeit at each of the newly proposed CMC MOC Cut-Off Times. Because of the speeds and widespread use of market technology the primary exchanges could, should they choose to do so, incorporate the Cboe Auction Feed information (including information about total matched shares in CMC) into their closing processes.[58] Additionally, as discussed above, because of the market technology utilized by market participants in today's markets, those who choose to participate in CMC will still have ample time [59] to reroute any MOC orders not matched via CMC to reach the primary exchanges' closing auctions. Notably, market participants that do not possess internal high-speed trading and routing capabilities often rely on third-party providers or broker-dealers [60] to handle and execute their orders electronically. Moreover, if market participants do not possess internal high-speed routing and trading technology, and do not utilize third-party solutions, the addition of the proposed CMC MOC Cut-Off Times of 3:15 p.m. and 3:30 p.m. would allow such participants to try and receive CMC matches earlier in the day at 3:15 p.m. or 3:30 p.m., rather than limiting themselves to the later CMC MOC Cut-Off Times of 3:49 p.m. and 3:54 p.m. and having less time to re-route the unmatched MOC orders to the primary exchanges or off-exchange closing price mechanisms. Accordingly, the Exchange believes that the proposed CMC MOC Cut-Off Times are not likely to result in disparate treatment amongst CMC users.

The proposed Interpretations and Policies .02 will also help to protect investors by making clear to Members participating in CMC how the Exchange will manage their CMC MOC orders in the event of a matching engine impairment that impacts the initiation and/or completion of a CMC matching session. Accordingly, Members will be better to manage their closing order flow and avoid risk of not receiving the official closing price for their orders by making informed decisions as to when they choose to remove their orders from CMC and instead re-route them to the primary exchanges' closing auctions, or an off-exchange closing price offering. Given the importance of the closing price to many investors for indexing, benchmark pricing, and guaranteed closing price orders, the information provided in proposed Interpretation and Policies .02 is critical to protection of investors.

Finally, the proposed amendment to 11.28(c) is designed to foster the protection of investors, and to prevent fraudulent and manipulative acts and practices. Because the Cboe Auction Feed will only disseminate the total size of matched buy and sell orders for each individual CMC MOC Cut-Off Time, and not the aggregate size across all CMC MOC Cut-Off Times, the information that any Member might be able to glean from the Cboe Auction Feed message will remain limited in nature (discussed *infra*), thereby preventing opportunities for any Member to game or manipulate the official closing price.

Price Discovery [61]

As was the case with its CMC Amendment, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) requirements.[62] As previously noted by the Exchange,[63] CMC accepts and matches only unpriced MOC orders. By matching only unpriced MOC orders, and not priced Limit-On-Close (''LOC'') orders and executing those matched MOC orders that naturally pair off with each other and effectively cancel each other out, CMC is designed to avoid impacting price discovery. The proposed rule change—*i.e.,* the addition of additional CMC MOC Cut-Off Times—does not change CMC's underlying functionality. As previously noted by the Exchange,[64] matched MOC orders are merely recipients of price formation and do not directly contribute to the price formation process. Indeed, in its Final Approval Order for CMC, even the Commission noted that unpriced, paired-off MOC orders do not directly contribute to setting the official closing price of securities on the primary listing exchanges but, rather, are inherently the recipients of price formation information.[65]

Moreover, the Exchange believes that even if the addition of CMC MOC Cut-Off Times reduces the number of MOC orders routed to a security's primary listing market, CMC is still designed to remove any perceived adverse impact on the primary listing markets' close because the total matched shares for each CMC session would still be disseminated by the Exchange free of charge via the Cboe Auction Feed prior to the primary exchanges' cut-off times. Additionally, even with the addition of the new CMC MOC Cut-Off Times, because of the technological capabilities of today's market participants discussed more fully above, the market makers on the primary exchanges would still have the ability to incorporate the Cboe Auction Feed information, including information about total matched shares in CMC, into their closing processes.

Furthermore, current users of CMC are either technologically equipped to manage the proposed CMC MOC-Cut Off Times or rely on third-party solutions that provide them with the technological capability to appropriately manage the proposed CMC MOC Cut-Off Times and timely re-route unmatched CMC orders participate in the primary exchanges' closing auctions. Similarly, given the widespread use of routing and trading technology in today's markets, it is likely that potential new CMC users already possess the technological capabilities to manage the proposed CMC MOC Cut-Off Times, and if they do not, similarly rely on third-party providers with high-speed technology offerings. Alternatively, CMC users lacking high-speed trading and routing technology can simply utilize the earlier CMC MOC Cut-Off Times of 3:15 p.m. and 3:30 p.m., providing themselves

[58] As it did in connection with its CMC Amendment, the Exchange again spoke with four (4) designated market makers for the primary exchanges and confirmed that while they do not currently monitor the Cboe Auction Feed, they are technologically equipped to do so, and could incorporate CMC information into their closing auction processes if they chose to do so. Additionally, it is the Exchange's understanding that Nasdaq subscribes to an Exchange depth of book feed which provides subscribers with an uncompressed data feed that includes depth of book quotations and execution information based on equity orders enter into the Exchange's System, including CMC orders. As discussed further, below, given the speed of today's market technology, a CMC MOC Cut-Off Time one-minute prior to the 3:55 p.m. Nasdaq MOC cut-off undoubtedly provides Nasdaq with enough time, should they so choose, to incorporate any relevant CMC information into their closing auction processes.

[59] *Supra* note 36.

[60] *Supra* note 41.

[61] As part of this proposed amendment, the Exchange is addressing several questions considered by the Commission in connection with the Exchange's Original Proposal, including price discovery and fragmentation, market complexity and operational risk, and manipulation. Importantly, in considering these questions, the Commission found that based on CMC's design and the record before the Commission, that the proposal was consistent with Section 6(b)(5) of the Act. *Supra* note 21.

[62] The Exchange notes that the Commission, in its Final Approval Order, carefully analyzed and considered CMC and its potential effects, if any, on the primary listing exchanges' closing auctions, including their price discovery functions. Importantly, the Commission found that, based on CMC's design, CMC should not disrupt the price discovery process in the closing auctions of the primary listing exchanges. *Supra* note 21.

[63] *See* Letter from Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, Bats Global Markets, Inc. (August 2, 2017), available at: *https://www.sec.gov//batsbzx-2017-34/batsbzx201734-2162452-157801.pdf; see also* Letter from Joanne Moffic-Silver (October 11, 2017), available at: *https://www.sec.gov/comments/sr-batsbzx-2017-34/batsbzx201734-2634580-161229.pdf.*

[64] *Id.*

[65] *Supra* note 21.

more flexibility to reroute unmatched CMC orders to the primary exchanges.

Fragmentation [66]

Another matter addressed by the Commission in its review of the Original Proposal was fragmentation, and whether CMC would fragment the markets beyond what currently occurs through off-exchange close price matching venues offered by broker-dealers.[67] While comparisons to off-exchange MOC activity may not be a perfect measure of the potential resulting effect of CMC market fragmentation,[68] the proposed CMC MOC Cut-Off Times are designed to enable CMC to better compete with off-exchange venues and for closing volume that is *already* executed away from the primary listing venues.

As illustrated in the first two charts below, a growing proportion of trading volume at the close occurs on off-exchange venues, where the TRF close volume, as a percent of Exchange close volume, has risen steadily since Q1 2019.[69] In the third chart the Exchange also studied the top ten most actively traded securities during the same time period and found that a significant portion of the total closing volume is executed off-exchange, following the dissemination of the official closing price.

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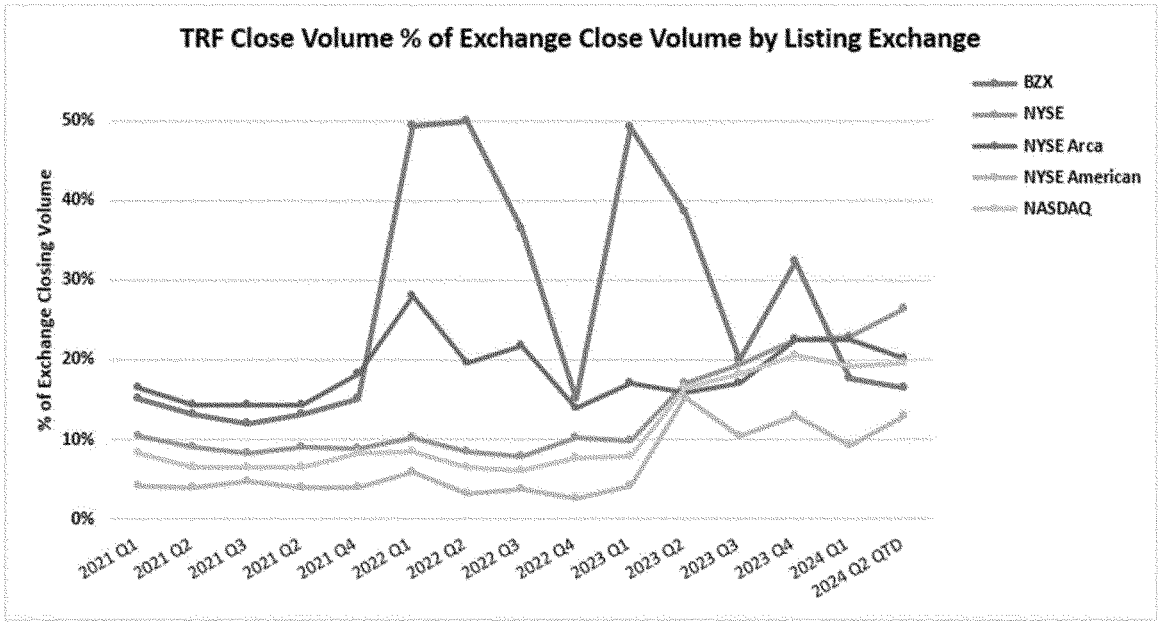
Figure 3 (Source: Internal Exchange Data)



[66] *Supra* note 60.

[67] *Supra* note 20.

[68] Id (''. . . [C]omparisons to off-exchange activity are not a perfect measure of the potential resulting effect of the [CMC] proposal because the structures of the many off-exchange mechanisms differ from the structure of Cboe Market Close.'').

[69] The Exchange conducted an analysis of off-exchange/Trade Reporting Facility (''TRF'') closing volume that occurs after market close, 4:00 p.m. Eastern Time, where the price is equal to the closing price and for which such trades are reported with a Prior Reference Price (''PRP'') trade reporting modifier. The TRF is a trade reporting facility where FINRA members may report trades in Nasdaq-listed and other exchange-listed securities, that were executed otherwise than on an exchange. The first two charts represent TRF executed volume at the close with the ''PRP'' flag that equals the closing auction price, divided by total on exchange auction volume.

Figure 4 (Source: Internal Exchange Data)

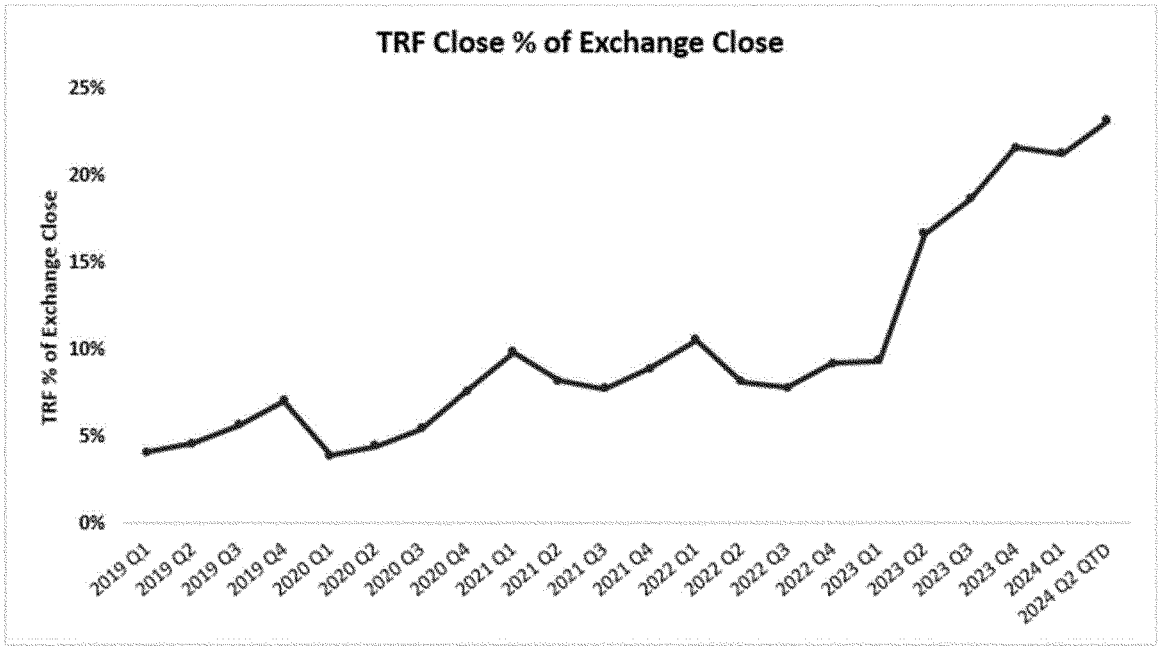


Figure 5 (Source: Internal Exchange Data)

	Symbol	Total ADV	Primary Listing Exchange	TRF Close % inc. PRP
1	TSLA	129,423,964	Nasdaq	12%
2	SQQQ	129,161,658	Nasdaq	21%
3	BBBY	122,763,238	Nasdaq	5%
4	SPY	80,346,142	NYSE Arca	13%
5	SOXS	73,944,691	NYSE Arca	16%
6	NKLA	67,493,708	Nasdaq	8%
7	AMD	64,632,893	Nasdaq	15%
8	PLTR	60,699,921	NYSE	15%
9	AAPL	59,750,017	Nasdaq	17%
10	PRTY	57,838,421	NYSE	7%

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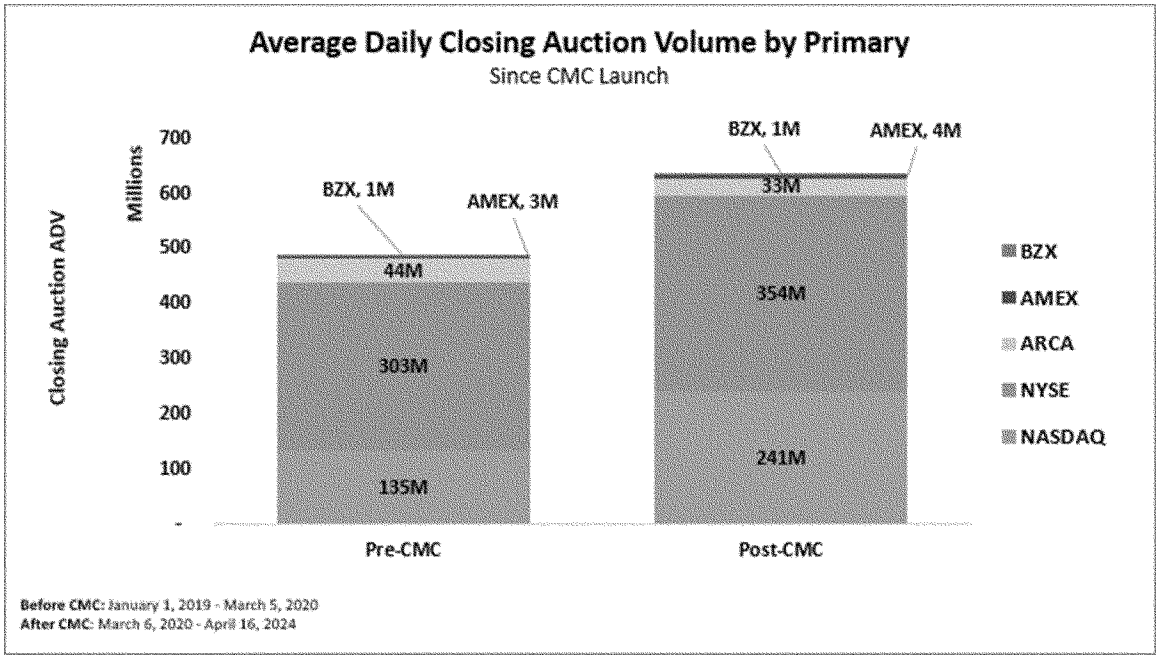
Given the significant volume of off-exchange MOC activity already occurring, the Exchange believes that there is still ample opportunity for the proposed CMC MOC Cut-Off Times to attract *existing* MOC volume that is being executed away from CMC and the primary listing venues. As discussed above, market participants have expressed the value of being able to trade closer to 4:00 p.m. In this regard,

the proposed CMC MOC Cut-Off Time of 3:54 p.m. satisfies the needs of today's market participants, and enables CMC to better compete with off-exchange venues, thereby ''foster[ing] price competition and . . . decreas[ing] costs for market participants.[70] Members may prefer to execute their MOC orders via CMC rather than off-exchange venues for reasons such as the increased transparency and reliability that exists when investors execute their orders on public, well-regulated exchanges. Moreover, by attracting such order flow, CMC can help to increase the amount of volume at the close executed on systems subject to the resiliency requirements of Regulation SCI.[71]

Moreover, the Exchange's observations in Figure 6 below show that the closing auction volume on both NYSE and Nasdaq has increased despite the launch of CMC on March 6, 2020, and the subsequent implementation of the 3:49 p.m. CMC MOC Cut-Off Time in 2023. Therefore, while the proposed amendment may lead to additional orders being routed to CMC rather than the primary exchanges' closing auctions, it cannot be said with certainty that such a change will cause additional fragmentation in the marketplace as it is possible that existing MOC order flow that already executes on off-exchange venues may in fact migrate to CMC. In other words, MOC orders that are already being executed and matched away from the primary exchanges will continue to match and execute on away venues, but rather would match and execute on CMC rather than on a less regulated, less-transparent venue. In fact, the Exchange believes the proposed additional CMC MOC Cut-Off Times are not likely to materially increase market fragmentation and therefore have a negative impact on the market because data shows that even with the implementation of CMC, there is still a significant amount of volume executed on the primary exchanges' suggesting that market participants continue to utilize the primary closing auctions.

Figure 6 (Source: Internal Exchange Data)



Market Complexity and Operational Risk [72]

The Exchange believes that the proposed rule change is simple and straightforward, and as such will not significantly increase market complexity or operational risk. The Exchange already received approval to change its MOC Cut-Off Time from 3:35 p.m. to 3:49 p.m., which resulted in no increase in market complexity and operational risk. The Exchange now seeks only to offer additional CMC MOC Cut-Off Times, none of which will increase market complexity or operational risk. Indeed, the proposed 3:15 p.m. and 3:30 p.m. CMC MOC Cut-Off Times are designed to help aid Members in managing their MOC order flow, and actually *mitigate* their operational and technological risk. The proposed 3:54 p.m. MOC Cut-Off Time—like the approved 3:49 p.m. MOC Cut-Off Time—is intended only to help better align CMC with the MOC cut-off time utilized by Nasdaq for its closing auction. While Members will now have the option to designate orders for participation in multiple CMC MOC Cut-Off Times, and any unmatched quantities for such orders will carry forward to the next CMC session, the Exchange believes that Members are well-equipped to manage any new workflow associated with these proposed enhancements. Indeed, the Exchange conferred with Members to discuss the proposed workflow prior to

[70] *Supra* note 21.

[71] *See* Letter from Joanne Moffic-Silver, Executive Vice President, General Counsel, and Corporate Secretary, Bats Global Markets, Inc., a Cboe Company (Oct. 11, 2017) (''Furthermore, [CMC] would operate on the Exchange's reliable SCI systems . . . significant MOC liquidity is conducted today by off-exchange venues. These venues are not SCI systems and, therefore, not subject to Regulation SCI's enhanced resiliency requirements. [CMC] could attract MOC orders from these off-exchange venues to the Exchange and its reliable SCI system, furthering the Commission's presumed desire for liquidity at the close to be conducted on SCI systems.'')

[72] *Supra* note 60.

submitting this proposal, and Members indicated that such changes did not present new or novel issues for them to consider. In addition, as previously noted,[73] both current CMC users and market participants in general, possess high-speed routing and order handling technology, that will enable them to efficiently manage the proposed changes to CMC. Members continuing to only participate in a single CMC session will not have to consider new operational requirements of monitoring and consuming a new data feed or consider the utilization of a new order type or implementation of new Exchange code, other than perhaps needing to monitor the Cboe Auction Feed for the publication of CMC information at a different CMC MOC Cut-Off Time. While Members electing to participate in multiple CMC sessions will need to monitor the Cboe Auction Feed for CMC information at multiple CMC MOC Cut-Off Times, Members have indicated that the operational and technological requirements to do so are not complex, and do not present any new or novel issues. In addition, as previously noted,[74] market participants today utilize high-speed technology that enables to receive and process market data in sub-second latencies. As such, given that the proposed CMC MOC Cut-Off Times are multiple *minutes* apart, the proposed CMC MOC Cut-Off Times should not present any new or novel issues for Members.

Additionally, just as the Exchange did prior to proposing the 3:49 p.m. CMC MOC Cut-Off Time, the Exchange discussed this current proposal with CMC users and learned that CMC's current users are technologically equipped[75] to manage the proposed 3:54 p.m. MOC Cut-Off Time, and that they can respond to CMC's publication of matched shares and quickly reroute any unmatched MOC orders in Nasdaq-listed securities to Nasdaq's closing auction. Furthermore, the Exchange again notes that both off-exchange venues and other exchanges already offer MOC cut-off times that are closer in time to the end of Regular Trading Hours. Specifically, in 2018 Nasdaq received approval to move the cut-off times for the entry of MOC and Limit-On-Close (''LOC'') orders from 3:50 to 3:55 p.m.[76] Similarly, in 2018 NYSE received approval from the SEC to extend cut-off times for order entry and cancellation for participation in its closing auction, from 3:45 p.m. to 3:50 p.m.[77] NYSE also offers discretionary-orders, which unlike MOC/LOC orders subject to NYSE's 3:50 p.m. cut-off, may be entered for participation in the closing auction until 3:59:50.[78] Additionally, market participants may enter MOC orders for participation in NYSE Arca's closing auction up to 3:59 p.m.[79] Finally, various off-exchange venues offer closing match processes with cut-off times aligned with those of the primary exchanges, and even as close to 30-seconds before market close, 4:00 p.m.[80]

Moreover, the proposed 3:15 p.m. and 3:30 p.m. CMC MOC Cut-Off Times will also enable new and existing CMC users that may not have high-speed trading and routing infrastructure, to still utilize CMC and not rely on high-speed technology to reroute unmatched CMC orders from the 3:49 p.m. or 3:54 p.m. MOC Cut-Off Times. The Exchange also notes that CMC is a voluntary offering, and Members may freely decide whether to participate.

Accordingly, the Exchange believes that market participants are well accustomed to managing the various cut-off times in today's marketplace and incorporating these timelines into their trading decisions. The number of exchanges and off-exchange venues with extended cut-off times indicates that market participants find value in their ability to retain control of their trading heading into the end of Regular Trading Hours, and the primary exchanges and off-exchange venues have responded to such demand. Certainly, market participants would not desire cut-off times closer to the end of Regular Trading Hours if they could not technologically and operationally manage their trading accordingly. Therefore, the proposed additional later CMC MOC Cut-Off Time should not present market participants with any novel operational or technological complexities.

The Exchange further notes that it has considered carefully the operational and technological requirements necessary to implement multiple CMC MOC Cut-Off Times. Relevant operations and technology teams were consulted in designing the proposed CMC MOC Cut-Off Times and confirmed that the Exchange's Systems can process and manage multiple CMC sessions. As such, the Exchange does not anticipate any undue increase in operational or technological complexity in implementing the proposed CMC MOC Cut-Off Times.

Manipulation[81]

In its CMC Amendment the Exchange noted that the value of the 3:49 p.m. CMC MOC Cut-Off Time was not the proximity of CMC's matched share message to the cut-off times of the primary exchanges, but rather the ability of users to trade their orders for a longer period of time before deciding whether to commit their MOC orders to CMC. The Exchange further stated that it did not expect that the proposed extension of the CMC MOC Cut-Off Time to 3:49 p.m. would result in an increase in manipulative activity due to information asymmetries, or that it raised any unique manipulation concerns relative to how CMC existed with a CMC MOC Cut-Off Time of 3:35 p.m. Importantly, the Exchange believes that this rationale also applies to the current proposal, and that the SEC should dismiss any manipulation concerns regarding this proposal, just as it did with the Original Proposal and CMC Amendment.

Here, the Exchange notes that the mere existence of multiple CMC MOC Cut-Off Times does not make any information CMC participants may be able to glean from their paired-off MOC orders any more valuable. Rather, the value of any information learned by CMC participants is still limited in nature. For instance, any information that CMC participants may learn from receiving matched MOC order messages is indeed limited in nature because the CMC participant would still only know the unexecuted size of its own order(s).[82] Even if a Member participated in all four CMC sessions—

[73] *Supra* note 36.

[74] *Id.*

[75] *Id.*

[76] *See* Securities Exchange Act Release No. 34–84454 (October 19, 2018), 83 FR 53923 (October 25, 2018) (SR-Nasdaq-2018–068) (Order approving a rule change by Nasdaq) (The Commission approved a rule change by Nasdaq to move the cut-off times for the entry of MOC and LOC orders from 3:50 p.m. to 3:55 p.m.); *see also* Securities Exchange Act Release No. 34–85021 (January 31, 2019) (SR–NYSE–2018–58) (Order approving a rule change by NYSE) (The Commission approved a rule change by the NYSE to amend Rule 123C to extend the cut-off times for order entry and cancellation for participation in the closing auction, from 3:45 p.m. to 3:50 p.m.).

[77] *Id.*

[78] *Supra* note 8.

[79] *See* ''Closing Auction Timeline'', available at: *https://www.nyse.com/markets/nyse-arca/trading-info.*

[80] *Supra* note 54.

[81] *Supra* note 60.

[82] The Exchange notes that in its Final Approval Order, even the Commission noted that, ''In particular, a market participant would only be able to determine the direction of the imbalance and would have difficulty determining the magnitude of any imbalance, as it would only know the unexecuted size of its own order. In addition, the information would only be with regard to the pool of liquidity on BZX and would provide no insight into imbalances on the primary listing exchange, competing auctions, ATSs, or other off-exchange matching services which, as described above, can represent a significant portion of trading volume at the close.'' *Supra* note 21.

3:15 p.m., 3:30 p.m., 3:49 p.m., and 3:54 p.m.—and received messages regarding matched MOC orders, the Cboe Auction Feed disseminates the total size of matched buy and sell orders for each MOC session *individually* (*i.e.,* not in aggregate). Moreover, the proposed CMC MOC Cut-Off Times are many minutes apart, during which time new MOC orders may be entered, rendering useless any information a Member may have gleaned regarding an imbalance in the prior session. Additionally, even if a Member chose to participate in CMC only to gather information about the direction of an imbalance and use such information to manipulate the closing price, the Member's orders were still eligible for execution subjecting the Member to economic risk.

While this proposal would result in the total shares for buy and sell orders in CMC being disseminated several times during the last hour of trading, and with two CMC MOC Cut-Off Times in close proximity to the primary exchanges' MOC cut-off times, these changes do not suddenly make such information more valuable or useful in terms of enhancing opportunities for gaming and manipulating the official closing price. The 3:49 p.m. and 3:54 p.m. CMC MOC Cut-Off Times are one-minute prior to NYSE's and Nasdaq's MOC cut-off times. As noted throughout, today's markets are marked by technological solutions which typically operate in durations of microseconds. In this context, the separation between the CMC MOC Cut-Off Times and those of NYSE's and Nasdaq's is a substantial duration of time, during which much can change in the marketplace, thus limiting the value of information, if any, that can be gleaned from CMC's dissemination of matched shares at these times.

Moreover, the 3:15 p.m. CMC MOC Cut-Off Time is thirty-five-minutes prior to NYSE's MOC cut-off time and forty-minutes prior to Nasdaq's MOC cut-off time. Similarly, the 3:30 p.m. CMC MOC Cut-Off Time is twenty-minutes prior to the NYSE's MOC cut-off time, and twenty-five-minutes prior to the Nasdaq MOC cut-off time. These proposed CMC MOC Cut-Off Times are even further from the primary exchanges' cut-off times than the current CMC MOC Cut-Off Time, during which the marketplace and CMC will experience significant change, even further limiting the value of information, if any, that a Member may glean from the dissemination of matched shares.

Furthermore, as with the current CMC MOC Cut-Off Time, the proposed CMC MOC Cut-off Times do not present any information asymmetries that do not already exist in today's markets, as the very nature of trading creates short term asymmetries of information to those who are parties to a trade.[83] Indeed, as noted by the Commission, any party to a trade gains valuable insight regarding the depth of the market when an order is executed or partially executed.[84] Additionally, NYSE imbalance information is already disseminated to NYSE floor brokers, who are permitted to share with their customers specific data from the imbalance feed.[85] Even in this case, though, the Commission stated that the value of such information is limited because the imbalance information does not represent overall supply and demand for a security, is subject to change, and is only one relevant piece of information.[86] Similarly, because any information gleaned by a CMC participant is limited only to the unexecuted size of their order(s), and relative to the depth of only the BZX pool of liquidity, the Exchange believes that the proposed addition of the CMC MOC Cut-Off Times does not create an increased risk of manipulative trading activity.

Moreover, there are currently controls and processes in place to monitor for manipulative trading activity, such as the supervisory responsibilities and capabilities of exchanges and the expansive cross market surveillance conducted by FINRA. Following approval of this proposal, the Exchange, FINRA and others will continue to surveil for potential manipulative activity and when appropriate, bring enforcement actions against market participants engaged in manipulative trading activity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendment applies equally to all Members, and is intended to offer additional CMC MOC Cut-Off Times, enabling a broader segment of Members to utilize CMC at times that better accommodate different trading strategies, and Members' technological and operational capabilities. As discussed above, current and prospective CMC users are technologically equipped to participate in the 3:54 p.m. matching session and timely re-route any unmatched CMC MOC orders in Nasdaq-listed securities to the Nasdaq closing auction. Members that may lack internal high-speed routing and trading technology may utilize third-party providers (discussed above) should they choose to participate in the 3:54 p.m. matching session. The Exchange notes that participation in CMC remains optional, and Members have the ability to determine whether or not to submit MOC orders to participate in CMC based on their technological capabilities.

Alternatively, the proposed CMC MOC Cut-Off Times of 3:15 p.m. and 3:30 p.m. will allow CMC users that may lack high-speed trading and routing infrastructure to utilize CMC without having to quickly re-route unmatched CMC orders to the primary exchanges just prior to their cut-off times, as well as attract new users who may desire a mechanism that allows them to match their MOC orders earlier in the trading day. Moreover, CMC is a voluntary closing match process, and Members are not required to participate in CMC. By offering earlier CMC MOC Cut-Off Times in addition to the proposed later MOC Cut-Off Time of 3:54 p.m., the Exchange is providing various alternatives to support Members with different technological capabilities, thus seeking to foster competition rather than hinder competition.

The Exchange also does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As noted above, the proposed 3:54 p.m. MOC Cut-Off Time more closely aligns CMC MOC with the Nasdaq MOC cut-off time, while still providing CMC participants with an opportunity to reroute any of their unpaired MOC orders in Nasdaq-listed securities to the Nasdaq closing auction. In this regard, the proposed 3:54 p.m. MOC Cut-Off Time may make CMC a more viable alternative to the Nasdaq closing auction and ''should foster price competition and thereby decrease costs for market participants.'' [87] Additionally, the proposed CMC MOC Cut-Off Times of 3:15 p.m. and 3:30 p.m. will help make CMC a more attractive alternative to market participants that may not feel comfortable attempting to match in CMC at 3:49 p.m. and re-routing any

[83] The Exchange also notes that in its Final Approval Order, even the Commission noted that, ''Further, the Commission believes information asymmetries as those described by commenters exist today and are inherent in trading, including with respect to closing auctions. For example, any party to a trade gains valuable insight regarding the depth of the market when an order is executed or partially executed.'' *Id.*

[84] *Id.*

[85] *Id.*

[86] *Id.*

[87] *Supra* note 21.

unmatched CMC orders to NYSE before 3:49 p.m., or at 3:54 p.m. and re-routing any unmatched MOC orders in Nasdaq-listed securities to Nasdaq prior to 3:55 p.m.. These proposed MOC Cut-Off Times may also make CMC a more attractive closing price alternative to market participants that simply wish to reduce their MOC trading obligations earlier in the trading day by attempting to match in CMC. Collectively, the proposed CMC MOC Cut-Off Times will enable the Exchange to compete with the primary exchanges more effectively, as well as with off-exchange venues that have cut-off times much closer in time to the market close and comprise a growing percentage of closing volume.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 2 and 3, is consistent with the requirements of the Act and the rules and regulations thereunder.[88] In particular, the Commission finds that the proposed rule change, as modified by Amendment Nos. 2 and 3, is consistent with Section 6(b)(5) of the Act,[89] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and Section 6(b)(8) of the Act,[90] which requires that the rules of a national securities exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange proposes to amend Rule 11.28(a) to add three additional CMC MOC Cut-Off Times to the existing CMC MOC Cut-Off time of 3:49 p.m., for a total of four matching sessions: 3:15 p.m. (new); 3:30 p.m. (new); 3:49 p.m. (current); and 3:54 p.m. (new). The 3:54 p.m. CMC MOC Cut-Off Time will be limited to Nasdaq-listed securities. The Commission believes that the earlier MOC Cut-Off Times will provide Exchange Members with more flexibility in mitigating any technological and operational risk associated with managing their MOC and closing price order flow. The Exchange has noted that this ability would be particularly useful on high-volume order days.[91] Further, with the proposed 3:15 p.m. and 3:30 p.m. CMC MOC Cut-Off Times, Members could have a greater opportunity of being matched earlier in the trading day before potentially needing to re-route their unmatched MOC orders to the primary exchanges or off-exchange closing price offerings.[92]

The proposed later MOC Cut-Off Time of 3:54 p.m., limited to orders in Nasdaq-listed securities, would be one-minute prior to Nasdaq's current MOC cut-off time of 3:55 p.m. The Exchange states that it discussed the proposed rule change with both current CMC users and potential new CMC users and confirmed that both groups could technologically manage the proposed rule change.[93] The Exchange states that today's market participants, including CMC users, rely on electronic smart order routers, order management systems, and trading algorithms, which make routing and trading decisions on an automated basis, in times typically measured in microseconds.[94] The Exchange states that CMC's current users that utilize third-party front-end providers or broker-dealers that provide them with electronic and automated trading solutions such as algorithms and smart order routers, which they use to access CMC; [95] and further states that market participants that may not currently possess internal high-speed routing and trading technology may, and likely already do, utilize such service providers.[96] According to the Exchange, if a CMC user receives a message that their MOC order was not matched in the CMC 3:54 p.m. matching session, such user would have more than enough time to re-route their MOC order to Nasdaq's Closing Cross auction.[97] The Commission believes that the data and survey information provided by the Exchange support the Exchange's contention that CMC users will have adequate time to receive electronic notification of any unmatched MOC orders and participate in Nasdaq's Closing Cross auction, should they choose to do so. Further, enabling CMC users to retain control of their trading for a longer period could encourage participation in CMC by market participants by providing more time to seek and may therefore promote competition among MOC order execution venues.

The Exchange also states that CMC's total matched shares information would still be disseminated by the Exchange free of charge via the Cboe Auction Feed, albeit at the new proposed MOC Cut-Off Times. According to the Exchange, because of the speeds and widespread use of market technology, market makers on the primary exchanges could, should they choose to do so, incorporate the Cboe Auction Feed information into their closing processes.[98] Further, the Exchange states that it discussed the proposed rule change with four designated market makers for the primary exchanges who confirmed that, while they do not currently monitor the Cboe Auction Feed, they are technically equipped to do so.[99] Therefore, with the proposed CMC MOC Cut-Off Times, market participants should continue to have opportunities to utilize CMC's total matched shares information, should they choose to do so.[100]

[88] In approving this proposed rule change, as modified by Amendments No. 2 and 3, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[89] 15 U.S.C. 78f(b)(5).

[90] 15 U.S.C. 78f(b)(8).

[91] *See* Amendment No. 2, *supra* note 6.

[92] *See id.*

[93] *See supra* note 41. Specifically, the Exchange discussed the proposed change with the two third-party providers whose end users are responsible for 100 percent of CMC's current volume. These providers indicated that the automated routing and trading solutions that they offer to CMC users can appropriately manage the proposed MOC Cut-Off Times, including the proposed 3:54 p.m. MOC Cut-Off Time. Additionally, the Exchange discussed the proposed change with potential new users of CMC. These market participants indicated that the proposed MOC Cut-Off Times would likely encourage them to use CMC as part of their trading and that they either independently maintained high-speed routing and trading capabilities, or utilized third-party technology providers or broker-dealers that provide them with such solutions. *See id.*

[94] *See supra* note 37.

[95] *See supra* note 41.

[96] *See supra* note 52.

[97] According to the Exchange, because the total matching process typically takes a fraction of a second, with the maximum around one second, with a 3:49pm MOC Cut-Off Time for example, a user should, in most instances, know the paired CMC quantity no later than 3:49:01pm, leaving the user at least 59 seconds to re-route any unpaired MOC orders to the primary exchanges' closing auctions. *See supra* note 40.

[98] *See supra* note 58 and accompanying text.

[99] *See id.*

[100] The Exchange also proposes to amend Rule 11.28(c) to state that at the conclusion of each CMC MOC Cut-Off Time, the Cboe Auction Feed will disseminate the total size of all buy and sell orders matched in CMC, and that such information will only be for that particular CMC matching session and would not include the total size of matched buy and sell orders from any prior CMC MOC Cut-Off Time. This clarification of the information disseminated in the Cboe Auction Feed will aid

As noted above, the Exchange's survey information and data indicate that CMC users and other market participants could accommodate the proposed CMC MOC Cut-Off Times and the total matched shares information would be disseminated by the Exchange free of charge at each of the proposed CMC MOC Cut-Off Times. Therefore, the Commission believes that the proposed rule change should not significantly contribute to increased market complexity or operational risk.[101] Finally, the proposed rule change should not adversely impact the ability of existing self-regulatory organization surveillance and enforcement activity to deter market participants who might seek to abuse CMC or use CMC information to abuse a closing auction on a primary exchange.

The Exchange also proposes to amend Interpretations and Polices .02 to Rule 11.28 to state how the Exchange will handle orders designated for multiple CMC MOC Cut-Off Times in the event the Exchange experiences a matching impairment impacting the Exchange's ability to conduct CMC matching sessions. The Commission believes that the proposed procedures provide more transparency regarding how MOC orders would be treated in the case of a matching engine impairment, particularly in the case where an MOC order has been designated for several matching sessions. In addition, the Commission believes that allowing a Member to still cancel their order during a matching engine impairment and prevent their MOC order(s) from participating in CMC once the matching engine failover is completed helps Members better manage their orders should an impairment occur and, if desired, re-route their orders to the applicable primary listings exchange.

Based on the foregoing, the Commission finds that the proposed rule change, as modified by Amendment Nos. 2 and 3, is consistent with the Act and the rules and regulations thereunder.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment Nos. 2 and 3, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–CboeBZX–2024–32 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CboeBZX–2024–32. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CboeBZX–2024–32 and should be submitted on or before September 19, 2024.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 2 and 3

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[102] to approve the proposed rule change, as modified by Amendment Nos. 2 and 3, prior to the 30th day after the date of publication of Amendment Nos. 2 and 3 in the **Federal Register**. In Amendment No. 2, the Exchange amended the proposal to: (1) eliminate the proposed 3:58 p.m. matching session; (2) limit the proposed 3:54 p.m. matching session to Nasdaq-listed securities; (3) provide that for the Cboe Auction Feed, the disseminated total size of all buy and sell orders matched via CMC will only be for that particular CMC matching; (4) provide more detail about the handling of CMC MOC order in the event of a matching engine impairment; and (5) provide additional justification and support of the proposal. In Amendment No. 3, the Exchange corrected a typographical error in the proposed rule text regarding the total number of CMC matching sessions.[103]

The Commission believes that these revisions strengthen the proposal and provide greater specificity and justification about to the proposed rule change and do not raise any novel regulatory issues. The additional explanation in support of the proposal as well as the amended rule language in Amendment Nos. 2 and 3 assist the Commission in evaluating the Exchange's proposal and in determining that it is consistent with the Act. Moreover, Amendment No. 3 makes no substantive changes to the proposal. Accordingly, the Commission finds good cause for approving the proposed rule change, as modified by Amendment Nos. 2 and 3, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[104] that the proposed rule change (SR–CboeBZX–2024–032), as modified by Amendment Nos. 2 and 3, be and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[105]

Vanessa A. Countryman,

Secretary.

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Members seeking to utilize CMC information into their closing auction processes.

[101] Moreover, the Commission previously found that CMC ''should not significantly increase market complexity and operational risk because it will simply constitute an additional optional MOC order execution venue for market participants, and an optional data feed that market participants may choose to monitor for information regarding the total size of matched MOC orders via Cboe Market Close.'' Securities Exchange Act Release No. 88008 (January 21, 2020), 85 FR 4726, 4729 (January 27, 2020) (Order Setting Aside Action by Delegated Authority and Approving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, to Introduce Cboe Market Close, a Closing Match Process for Non-BZX Listed Securities under New Exchange Rule 11.28).

[102] 15 U.S.C. 78f(b)(2).

[103] *See* Amendment No. 3, *supra* note 7.

[104] 15 U.S.C. 78s(b)(2).

[105] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100815]

Notice of Intention To Cancel Registration of Certain Municipal Advisors Pursuant to Section 15b(C)(3) of the Securities Exchange Act of 1934

August 23, 2024.

Notice is given that the Securities and Exchange Commission (the ''Commission'') intends to issue an order or orders, pursuant to Section 15B(c)(3) of the Securities Exchange Act of 1934 (the ''Act''), cancelling the municipal advisor registration of Development & Public Finance, LLC (CIK# 1613281) (hereinafter referred to as the ''Registrant'').

Section 15B(c)(3) of the Act provides, in pertinent part, that if the Commission finds that any municipal advisor registered under Section 15B is no longer in existence or has ceased to do business as a municipal advisor, the Commission, by order, shall cancel the registration of such municipal advisor.

The Commission finds that the Registrant:

(i) has not filed any municipal advisor form submissions with the Commission through the Commission's Electronic Data Gathering and Retrieval (''EDGAR'') system since May 24, 2021 (including but not limited to the annual amendments (form MA–A) required by 17 CFR 240.15Ba1–5(a)(1)); and/or

(ii) based on information available from the Municipal Securities Rulemaking Board (the ''MSRB''), (a) is not registered as a municipal advisor with the MSRB under MSRB Rule A–12(a) and/or (b) does not have an associated person who is qualified as a municipal advisor representative under MSRB Rule G–3(d) and for whom there is a Form MA–I required by 17 CFR 240.15Ba1–2(b) available on EDGAR, and/or (c) has not, since February 2022, filed with the MSRB any Form A–12 annual affirmation as required by MSRB Rule A–12(k); and/or withdrew its registration from the MSRB without first withdrawing its registration from the Commission.

Accordingly, the Commission finds that the Registrant is either no longer in existence or has ceased to do business as a municipal advisor.

Notice is also given that any interested person may, by September 23, 2024, at 5:30 p.m. Eastern Time, submit to the Commission in writing a request for a hearing on the cancellation of the registration of the Registrant, accompanied by a statement as to the nature of such person's interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, and such person may request to be notified if the Commission should order a hearing thereon. Any such communication should be addressed to the Commission's Secretary at the address below. All comments or requests received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

At any time after September 23, 2024, the Commission may issue an order or orders cancelling the registration of the Registrant, upon the basis of the information stated above, unless an order or orders for a hearing on the cancellation shall be issued upon request or upon the Commission's own motion. Persons who requested a hearing, or to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. Any Registrant whose registration is cancelled under delegated authority may appeal that decision directly to the Commission in accordance with Rules 430 and 431 of the Commission's rules of practice (17 CFR 201.430 and 431).

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Mark Elion, Senior Counsel, Office of Municipal Securities, 100 F Street NE, Washington, DC 20549, or at (202) 551–5680.

For the Commission, by the Office of Municipal Securities, pursuant to delegated authority.[1]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–19398 Filed 8–28–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100813; File No. SR–DTC–2024–008]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the DTC Operational Arrangements (Necessary for Securities To Become and Remain Eligible for DTC Services)

August 23, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 13, 2024, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to the DTC Operational Arrangements (Necessary for Securities to Become and Remain Eligible for DTC Services) (''OA'')[5] to provide for a modernized process for submission of notices (''LENS Notices'') by issuers, transfer agents and trustees to DTC's Legal Notice System (''LENS'') and DTC's processing of such LENS Notices.[6] Specifically, the proposal would revise the OA to replace existing methods for submitting LENS Notices with an online portal (''Issuer Agent Portal'') that DTC has developed for this purpose. The proposed rule change would also make technical and clarifying changes to the text of the OA relating to the submission and processing of LENS Notices, as described in greater detail below.[7]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B,

[1] 17 CFR 200.30–3a(a)(1)(ii).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] *Available at http://www.dtcc.com/~/media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf.* The OA is a Procedure of DTC. Pursuant to the Rules, the term ''Procedures'' means the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time. *See* Rule 1, Section 1, *infra* note 7. They are binding on DTC and each Participant in the same manner that the Rules bind them. *See* Rule 27, *infra* note 7.

[6] *See* OA, *supra* note 5, at 27–29.

[7] Each capitalized term not otherwise defined herein has its respective meaning as set forth the Rules, By-Laws and Organization Certificate of DTC (the ''Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change consists of modifications to the OA to provide for a modernized process for submission of LENS Notices by issuers, transfer agents and trustees to DTC's Legal Notice System (''LENS'') and DTC's processing of such LENS Notices. Specifically, the proposal would revise the OA to replace existing methods for submitting LENS Notices with an online portal (''Issuer Agent Portal'') that DTC has developed for this purpose. The proposed rule change would also make technical and clarifying changes to the text of the OA relating to the submission and processing of LENS Notices, as described below.

Background

A LENS Notice is a notice of information, provided to DTC by an issuer, transfer agent or trustee of securities, which is intended to be made available to holders of securities. Parties submitting LENS Notices may have a legal or regulatory obligation or other interest in distributing the notice information to holders of the securities. Such notices are delivered to DTC because DTC's nominee, Cede & Co., is the registered holder of the applicable securities and/or DTC is the ''appropriate qualified registered securities depository'' [8] with respect to the securities.

A type of LENS Notice DTC receives is a notice of transfer agent changes (''17Ad–16 Notice'') pursuant to Rule 17Ad–16.[9] DTC has been designated by the Commission as the appropriate qualified registered securities depository to receive 17Ad–16 Notices.[10] Rule 17Ad–16 is designed to address transfer delays due to unannounced transfer agent changes, including the termination or assumption of the transfer agent services for a particular issue, and the change of the name or address of a transfer agent.[11] Rule 17Ad–16 requires a registered transfer agent to send a 17Ad–16 Notice to the appropriate qualified registered securities depository (a) on or before the later of ten calendar days prior to the effective date of such termination or the day the transfer agent is notified of the effective date of such termination [12] and (b) on or before the later of ten calendar days prior to the effective date of a change in the registered transfer agent's name or address or when that registered transfer agent assumes transfer agent services on behalf of an issuer of securities.[13]

Any transfer agent for securities held at DTC, whether or not it is a registered transfer agent, and any trustee for securities held at DTC must submit information relating to transfer agent or trustee changes to DTC. Today, these LENS Notices must be provided via (i) designated email addresses (''Email Method'') or (ii) an online link (''Link Method,'' and collectively with the Email Method, the ''Current Submission Methods''), as set forth in the OA.[14]

Issuers, transfer agents and trustees may deliver other types of LENS Notices to holders to DTC for posting to LENS. These include, but are not limited to, closing memoranda, new issue memoranda, mutual fund memoranda, notices for ineligible securities, legal notices, tax notices and other forms of public investor communications.[15] Such LENS Notices must be submitted via the Email Method.

If a LENS Notice is delivered to DTC using the applicable Current Submission Method, DTC then posts the LENS Notice to LENS, where it becomes available for viewing by Participants.[16] DTC makes each 17Ad–16 Notice available to Participants within 24 hours of DTC's receipt of the notice from the transfer agent, not including weekends and holidays (*i.e.,* non-Business Days).[17]

Proposed Enhancements

The Current Submission Methods require manual intervention by DTC to post the LENS Notices that it receives to LENS. DTC proposes to automate these processes through implementation of the Issuer Agent Portal, which would provide a more efficient straight-through posting of LENS Notices, in support of the regulatory required timeframes. In this regard, the Issuer Agent Portal would allow centralized receipt and dissemination of LENS Notices and eliminate the manual processing that DTC currently performs to post LENS Notices.

More specifically, the proposal will update the OA to establish the Issuer Agent Portal for (i) receiving LENS Notices, and (ii) automated posting of LENS Notices to LENS. The Current Submission Methods would be discontinued. The proposed rule change will also make technical and clarifying changes relating to the submission and posting of LENS Notices, as described below.

Proposed Rule Change

Pursuant to the proposed rule change, the OA text will be revised as set forth below.

Subsection II.B.4.b. (Transfer Agent Required Notices)

The proposed rule change will revise this subsection II. B. 4. b. of the OA to (i) remove the Current Submission Methods as the accepted methods for submission of 17Ad–16 Notices to DTC, (ii) provide that the Issuer Agent Portal is the only means for transfer agents to submit 17Ad–16 Notices to DTC and give a brief description of the Issuer Agent Portal,[18] (iii) provide the link to the web page [19] where the Issuer Agent Portal is available, (iv) specify that agents must use a function within the Issuer Agent Portal referred to as the Transfer Agent 17Ad–16 Notices function (''17Ad–16 Function'') when submitting 17Ad–16 Notices, (v) state that the 17Ad–16 Function requires completion of certain mandatory fields

[8] Pursuant to Rule 17Ad–16 (''Rule 17Ad–16'') under the Act, an ''appropriate qualified registered securities depository'' shall mean the qualified registered securities depository that the Commission so designates by order or, in the absence of such designation, the qualified registered securities depository that is the largest holder of record of all qualified registered securities depositories as of the most recent record date. 17 CFR 240.17Ad–16(f).

[9] *Id.*

[10] *See* Securities Exchange Act Release No. 35378 (Feb. 15, 1995), 60 FR 9875 (Feb. 22, 1995) (File No. SR–DTC–95–02).

[11] *See* Securities Exchange Act Release No. 35039 (Dec. 1, 1994), 59 FR 63656 (Dec. 8, 1994) (S7–1–92).

[12] 17 CFR 240.17Ad–16(a).

[13] 17 CFR 240.17Ad–16(b).

[14] *See* OA, *supra* note 5, at 27–29.

[15] *See* OA, *supra* note 5, at 29.

[16] Once a LENS Notice is posted, a Participant may share it with its customers.

[17] For example, if DTC receives a 17Ad–16 Notice through a Current Submission Method at 6:00 p.m. Eastern Time (''ET'') on a Monday (that is not a holiday), DTC makes the 17Ad–16 Notice available for viewing by Participants on LENS no later than 5:59 p.m. ET on Tuesday. For weekends, if DTC receives a notice at or after 6:00 p.m. ET on a Friday, DTC makes the 17Ad–16 Notice available for viewing by Participants on LENS no later than 5:59 p.m. ET on Monday.

[18] There is no cost to parties submitting through the Issuer Agent Portal, and registration to use the Issuer Agent Portal is not required. Since the submitting party is submitting public data, it is not required to have a registration account. Submitters of LENS Notices would use a public facing site, the Issuer Agent Portal, and submit details/documents using an email address to receive a verification code, and complete a test to ensure the submitter is a human (*i.e.,* CAPTCHA verification). In this regard, the proposed new submission method using the Issuer Agent Portal would provide for enhanced verification of the identity of submitters in comparison to the Current Submission Methods.

[19] *Available at https://issueragentservices.dtcc.com.*

(a) relating to information required to be included in a 17Ad–16 Notice pursuant to Rule 17Ad–16 [20] and (b) other information necessary for DTC to process a submission,[21] (vi) state that optional fields may also be available,[22] (vii) state that hard copy notices physically mailed to DTC and/or notices attached to or embedded in an email sent to DTC will not be posted to LENS and (viii) provide technical information on the features of the Issuer Agent Portal, including that (a) after an agent makes a successful input of the 17Ad–16 Notice and required information, the agent may review the information and make any changes, if necessary, and submit the details for posting to LENS, (b) the Issuer Agent Portal will provide functionality for the agent to save and export, a copy of the information for its own records and (c) state that a confirmation email will be sent to the submitting agent.[23] The revised OA text will also provide that if an agent does not receive a confirmation email, it should consider submission of the 17Ad–16 Notice as incomplete and not submitted to LENS, and that the agent should resubmit the 17Ad–16 Notice.

The subsection will also state that all information is posted to LENS in a standardized format reflecting the information submitted by the agent and that agents should retain a copy of all information they submit for their own records.

An email address will also be provided for inquiries to DTC relating to the 17Ad–16 Notice process.

Subsections II.B.4.c. and d. (Termination of Transfer Agent Services/Assumption of Transfer Agent Services)

Subsections II.B.4.c. and d. would be deleted. These sections itemize information currently required to be included in a 17Ad–16 Notice relating to the termination of transfer agent services or the assumption of transfer agent services, as applicable. Since these lists are derived primarily from Rule 17Ad–16 itself, it is unnecessary to state them in the OA. In this regard, DTC would replace these lists with the general description of required information, as stated above, with respect to revised subsection II.B.4.b.

Re-Lettered Subsection II.B.4.e. (To Be Re-Lettered as II. B. 4. c.) (Transfer Agent's Change of Name or Address)

Subsection II.B.4.e. will be re-lettered as II. B. 4. c. to reflect the changes to the subsections described above.

This subsection notes the type of information that a transfer agent must provide in a notice if it is changing its name or address. This information includes (i) certain contact information of the agent, (ii) FINS Number, (iii) agent number and (iv) the location where security certificates shall be received for transfer and re-registration. Rule 17Ad–16 requires the transfer agent's notice to include all this information in its notice except for the agent number. To conform the list of required items in this subsection to Rule 17Ad–16, DTC proposes to revise this subsection to eliminate the agent's number [24] as a required item.[25]

This subsection would also note that hard copy notices physically mailed to DTC and/or notices attached to or embedded in an email sent to DTC will not be posted to LENS.

An email address will also be provided for inquiries to DTC relating to the 17Ad–16 Notice process, and certain technical and clarifying changes will be made to this subsection's text.

Re-Lettered Subsection II.B.4.f. (To Be Re-Lettered as II.B.4.d.) (Posting of Transfer Agent Notices to LENS)

Subsection II.B.4.f. will be re-lettered as II.B.4.e. to reflect the lettering change related to the consolidation of Subsections II.B.4.c. and II.B.4.d.

The text of this subsection will be revised to change an existing reference that a 17Ad–16 Notice is ''sent'' to DTC to instead state that a 17Ad–16 Notice is ''submitted'' to DTC, in order to reflect the proposed submission change through the Issuer Agent Portal.

New Subsection II.B.4.e. (Legal and Tax Notices)

The Issuer Agent Portal will include a new Legal & Tax function to be used by transfer agents to submit to LENS legal, tax and other forms of public investor communications [26] unrelated to corporate actions.[27] The OA text would be updated to state that this function must be used for these types of communications. Like submissions using the 17Ad–16 Function, the Issuer Agent Portal will generate an email confirmation upon successful receipt of notice submissions for legal and tax notices. An email address will also be provided for inquiries to DTC relating to the notice process.

Text would be added to clarify that the Issuer Agent Portal is the only facility where transfer agents can submit such forms of public investor communications that are not related to corporate actions to DTC. The text would also state that hard copy notices physically mailed to DTC and/or notices embedded in an email sent to DTC will not be posted to LENS.

Re-Lettered Subsection II.B.4.g. (To Be Re-Lettered as II.B.4.f.) (Other Notices Delivered by Transfer Agents for Posting to LENS)

Subsection II.B.4.g. will be re-lettered as II.B.4.f. to reflect the lettering change related to the consolidation of Subsections II.B.4.c. and II.B.4.d.

This subsection provides requirements for submission of other types of notices to LENS including but not limited to closing memoranda, new issue memoranda, mutual fund memoranda and notices for ineligible securities. The proposed rule change would revise this section to reflect that such notices must be submitted to DTC through the 17Ad–16 Function of the Issuer Agent Portal, rather than via email, as they are currently submitted.

A disclaimer stating that DTC does not screen notices for posting to LENS would be revised to reflect the new mechanism through the Issuer Agent Portal for the submission of notices and clarify that DTC does not screen such notices from issuers, agents and trustees.[28]

[20] Information required to be included in a 17Ad–16 Notice pursuant to Rule 17Ad–16 includes (i) contact information of the transfer agent, (ii) Financial Industry Number Standard (''FINS'') number of the submitting transfer agent and (iii) issuer name, issue or issues handled and, if applicable, respective CUSIP numbers. A FINS number is a unique number issued by DTC and used by the securities industry as a means of identifying financial institutions in automated data processing systems. *See* Notice of Assumption or Termination of Transfer Agent Services, Securities Exchange Act Release No. 35039 (Dec. 1, 1994), 59 FR 63656 (Dec. 8, 1994) (S7–1–92) n 12.

[21] Such information includes, but may not be limited to, the transfer agent indicating whether the relevant issue or issues are held in DTC's Fast Automated Securities Transfer (''FAST'') program.

[22] Optional fields may include, but not be limited to, identifying information for the agent involved in the change of transfer agent services that is not the submitter of the notice. For example, if a transfer agent that is submitting a notice to the Issuer Agent Portal is assuming services for an issue, the portal may provide an optional field or fields for that transfer agent to provide certain identifying information, if known, relating to the transfer agent that is terminating its services for the issue.

[23] The confirmation email representing a successful submission is sent to a transfer agent's business email in near real-time. The text will state that transfer agents should check their spam, clutter, or junk folders if they do not receive the submission confirmation email.

[24] The agent number is assigned by DTC on its ''Agent Masterfile.''

[25] *See* 17 CFR 240.17Ad–16(b).

[26] *See* Securities Exchange Act Release No. 43964 (Feb. 14, 2001), 66 FR 11190 (Feb. 22, 2001) (File No. SR–DTC–00–18) n.6.

[27] The process for submitting notices for specific types of corporate actions notifications is defined in applicable sections relating to processing of corporate actions in the OA.

[28] The current text only specifies that DTC does not screen notices received from transfer agents.

The proposed rule change would provide clarifying text that notices relating to corporate actions (except for bankruptcy notices) [29] should not be submitted through the Issuer Agent Portal. Other sections of the OA provide instructions on the submission of corporate actions notices.

Subsection II.B.5. (Trustee Required Notices)

This subsection provides instructions for trustees for providing notices with respect to a change in trustee with respect to an issue of securities. While DTC understands that trustees may not be transfer agents, and thus may not subject be to Rule 17Ad–16, the information provided for such notices is like that required for 17Ad–16 Notices. Therefore, the proposed rule change would revise the text of this subsection to remove references to the Current Submission Methods as acceptable means for submitting such notices, and direct that these notices should be submitted through the 17Ad–16 Function.[30] The Subsection would state that hard copy notices physically mailed to DTC and/or notices embedded in an email sent to DTC will not be posted to LENS.

An email address will also be provided for inquiries to DTC relating to the notice process.

Subsection II.B.6. (LIBOR Replacement Index Communication Tool)

Subsection II.B.6. provides instructions for use of the LIBOR Replacement Index Communication Tool (''Communication Tool''), which is designed to help issuers, trustees and agents communicate via LENS certain LIBOR benchmark replacement information for securities that are converting from LIBOR (USD) to an alternative reference rate.[31] The OA currently provides a URL to a web page where users may access the Communication Tool. Upon implementation of the proposed rule change, the OA will be updated to instruct transfer agents to use the LIBOR function of the Issuer Agent Portal [32] to access the Communication Tool, and the text of this subsection will be updated accordingly.

Effective Date

The proposed changes will be implemented by no later than August 23, 2024, on a date to be announced by Important Notice.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act [33] requires that the rules of the clearing agency be designed, *inter alia,* to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. As described above, the proposed rule change would help facilitate the posting of LENS Notices containing information relating to securities held at DTC, by removing an outdated, manual process of making LENS Notices available to Participants that hold the securities through their DTC Accounts and settle transactions in them through DTC, in favor of the newer, more efficient method of posting LENS Notices using the Issuer Agent Portal. In this regard, DTC believes that the proposed rule change would foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by facilitating posting Notices to LENS through using a more automated, straight-through processing method for distribution of LENS Notices to such Participants. Therefore, by facilitating a more automated and efficient method of transmission of straight-through processing method for distribution of notices to Participants that may hold such securities and settle transaction in them through DTC, DTC believes that the proposed rule change is consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act, cited above.

Rule 17ad–22(e)(21) [34] promulgated under the Act requires, *inter alia,* that DTC, a covered clearing agency, establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, be efficient and effective in meeting the requirements of its participants and the markets it serves. As described above, the proposed rule change would update the OA to establish a more centralized and improved means for DTC to receive Notices more efficiently and effectively through the Issuer Agent Portal than via an email submission and to provide for the automated posting of Notices to LENS for Participant consumption. In this regard, DTC believes that the proposed rule change would provide a more streamlined approach for issuers, trustees and agents to disseminate Notices to Participants, and ultimately their customers, regarding securities that they may hold and processed through DTC. Therefore, DTC believes that the proposed rule change would help promote efficiency and effectiveness by helping DTC better meet the requirements of its participants and the markets it serves, consistent with Rule 17ad–22(e)(21).

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact, or impose any burden, on competition.

As described above, the proposed rule change consists of changes to the OA that will provide for the submission of LENS Notices for posting to LENS via the Issuer Agent Portal. The Issuer Agent Portal will be publicly available on DTCC's web page and DTC believes the portal will be as readily accessible to submitters of LENS Notices as the Current Submission Methods. Consistent with current practice, issuers, agents and trustees will not be charged for submission of LENS Notices.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they would be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.[35]

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on

[29] Bankruptcy notices would be submitted via the Issuer Agent Portal by selecting Legal and Tax Notices.

[30] If the trustee believes that a field within in the 17Ad–16 Function is not applicable to a trustee (as opposed to a transfer agent), the trustee should leave the field blank.

[31] *See* Securities Exchange Act Release No. 97009 (Mar. 1, 2023), 88 FR 14221 (Mar. 7, 2023) (File No. SR–DTC–2023–002).

[32] *Supra* note 19.

[33] 15 U.S.C. 78q–1(b)(3)(F).

[34] 17 CFR 240.17ad–22(e)(21).

[35] DTC has conducted outreach to transfer agents to discuss the proposed Issuer Agent Portal. DTC also held a webinar to discuss the Issuer Agent Portal with the transfer agent community. DTC has provided transfer agents with access to test the Issuer Agent Portal and has established a dedicated email box for transfer agents to provide feedback on the functionality of the Issuer Agent Portal. DTC has added information and responses to frequently asked questions to the web page dedicated to the Issuer Agent Portal, *available at https://www.dtcc.com/settlement-and-asset-services/issuer-services/issuer-agent-portal.*

how to submit comments, *available at https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

DTC reserves the right to not respond to any comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [36] of the Act and paragraph (f) [37] of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–DTC–2024–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2024–008. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's website (*https://dtcc.com/legal/sec-rule-filings.aspx*). Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to File Number SR–DTC–2024–008 and should be submitted on or before September 19, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–19396 Filed 8–28–24; 8:45 am]

BILLING CODE 8011–01–P

[36] 15 U.S.C. 78s(b)(3)(A).

[37] 17 CFR 240.19b–4(f).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100810; File No. SR–BX–2024–019)]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Suspension of and Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change To Adopt an OTTO Protocol

August 23, 2024.

I. Introduction

On June 26, 2024, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change (File Number SR–BX–2024–019) to adopt an OTTO protocol and associated fee. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on July 15, 2024.[4] Pursuant to Section 19(b)(3)(C) of the Act,[5] the Commission is hereby: (1) temporarily suspending the proposed rule change; and (2) instituting proceedings to determine whether to approve or disapprove the proposed rule change.

II. Background and Description of the Proposed Rule Change

The Exchange states that the purpose of the proposed rule change is to adopt a new protocol, ''Ouch to Trade Options'' or ''OTTO'' and establish pricing for this new protocol.

According to the Exchange, today, BX Participants may enter orders into the Exchange through the ''Financial Information eXchange'' or ''FIX.'' [6] The Exchange states that the proposed new OTTO protocol is identical to the OTTO protocol offered today on 3 Nasdaq affiliated exchanges, Nasdaq ISE, LLC (''ISE''), Nasdaq GEMX, LLC (''GEMX'') and Nasdaq MRX, LLC (''MRX'').[7]

The Exchange states that the OTTO protocol is a proprietary protocol of Nasdaq, Inc and that the Exchange continues to innovate and modernize technology so that it may continue to compete among options markets.[8] The Exchange states that the ability to continue to innovate with technology and offer new products to market participants allows BX to remain competitive in the options space which currently has seventeen options markets and potential new entrants.[9]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 99841 (July 9, 2024), 89 FR 57485 (''Notice'').

[5] 15 U.S.C. 78s(b)(3)(C).

[6] *See* Notice, 89 FR at 57485. The Exchange states that FIX is an interface that allows Participants and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders and responses to and from the Exchange. *Id.* at n.3. The Exchange states that features include the following: (1) execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications. *Id.* The Exchange states that, in addition, a BX Participant may elect to utilize FIX to send a message and PRISM Order, as defined within Options 3, Section 13, to all BX Participants that opt in to receive Requests for PRISM requesting that it submit the sender's PRISM Order with responder's Initiating Order, as defined within Options 3, Section 13, into the Price Improvement Auction (''PRISM'') mechanism, pursuant to Options 3, Section 13 (''Request for PRISM''). *Id.* (citing Exchange Rule Options 3, Section 7(e)(1)(A)).

[7] *See* Notice, 89 FR at 57485–86.

[8] *See* Notice, 89 FR at 57486.

[9] *See* Notice, 89 FR at 57486.

OTTO Protocol

The Exchange states that as proposed, OTTO would allow Participants and their Sponsored Customers [10] to connect, send, and receive messages related to orders, auction orders, and auction responses to the Exchange.[11] The Exchange states that OTTO features would include the following: (1) options symbol directory messages (*e.g.,* underlying and complex instruments); (2) System [12] event messages (*e.g.,* start of trading hours messages and start of opening); (3) trading action messages (*e.g.,* halts and resumes); (4) execution messages; (5) order messages; (6) risk protection triggers and cancel notifications; (7) auction notifications; (8) auction responses; and (9) post trade allocation messages.[13] The Exchange notes that unlike FIX, which offers routing capability, OTTO does not permit routing.[14] The Exchange states that it proposes to include this description of OTTO in new Options 3, Section 7(e)(1)(B) and re-letter current ''B'' as ''C''.[15]

The Exchange states that while the Exchange has no way of predicting with certainty the amount or type of OTTO Ports market participants will in fact purchase, the Exchange anticipates that some Participants will subscribe to multiple OTTO Ports in combination with FIX Ports.[16] The Exchange notes that Options Participants may use varying number of OTTO ports based on their business needs.[17]

Other Amendments

In connection with offering OTTO, the Exchange proposes to amend other rules within Options 3.[18] Each amendment is described below.

Options 3, Section 7

The Exchange states that it proposes to amend Options 3, Section 7, Types of Orders and Quote Protocols.[19] The Exchange states that specifically, BX proposes to amend Options 3, Section 7(b)(2) that describes the Immediate-or-Cancel'' or ''IOC'' order.[20] The Exchange states that today, Options 3, Section 7(b)(2)(B) notes that an IOC order may be entered through FIX or SQF, provided that an IOC Order entered by a Market Maker through SQF is not subject to the Order Price Protection, the Market Order Spread Protection, or Size Limitation in Options 3, Section 15(a)(1), (a)(2), and (b)(2), respectively.[21] The Exchange states that it proposes to add ''OTTO'' to the list of protocols to note that an IOC order may also be entered through OTTO.[22]

BX also states that it proposes to amend the ''DAY'' order in Options 3, Section 7(b)(3) that currently provides that a Day order may be entered through FIX.[23] The Exchange states that with the addition of OTTO, a Day order may also be entered through OTTO.[24]

BX states that it also proposes to amend the ''Good Til Cancelled'' or ''GTC'' order which currently does not specify that a GTC order may be entered through FIX.[25] The Exchange states that GTC orders would only be able to be entered through FIX and not OTTO.[26] The Exchange states that it proposes to amend Options 3, Section 7(b)(4) to add a sentence to note that GTC orders may be entered through FIX.[27]

Options 3, Section 8

The Exchange states that BX proposes to amend Options 3, Section 8, Options Opening Process.[28] The Exchange states that BX proposes to amend Options 3, Section 8(l) that describes the Opening Process Cancel Timer.[29] The Exchange states that the Opening Process Cancel Timer represents a period of time since the underlying market has opened, and that if an option series has not opened before the conclusion of the Opening Process Cancel Timer, a Participant may elect to have orders returned by providing written notification to the Exchange.[30] The Exchange states that today, these orders include all non-Good Til Cancelled Orders received over the FIX protocol.[31] The Exchange states that it proposes to add the OTTO protocol as well to the rule text language in that paragraph.[32]

Options 3, Section 12

The Exchange states that it proposes to amend the Options 3, Section 12, Crossing Orders.[33] Specifically, the Exchange states that it proposes to amend Customer Crossing Orders in Options 3, Section 12(a) that currently provides Public Customer-to-Public Customer Cross Orders are automatically executed upon entry provided that the execution is at or between the best bid and offer on the Exchange and (i) is not at the same price as a Public Customer Order on the Exchange's limit order book and (ii) will not trade through the NBBO.[34] The Exchange states that Public Customer-to-Public Customer Cross Orders must be entered through FIX.[35] The Exchange states that it proposes to remove the sentence that provides that Public Customer-to-Public Customer Cross Orders must be entered through FIX because they will be able to be entered through both FIX and OTTO.[36]

Options 3, Section 17

The Exchange states that it proposes to amend the Kill Switch at Options 3, Section 17.[37] The Exchange states that the Kill Switch provides Participants with an optional risk management tool to promptly cancel and restrict orders.[38] The Exchange states that with the introduction of OTTO, the Exchange proposes to align its Kill Switch rule text with MRX's Kill Switch.[39] The Exchange states that it proposes to note in Options 3, Section 17(a) that BX Participants may initiate a message(s) to the System to promptly cancel and restrict their order activity on the Exchange, as is the case today, as described in section (a)(1).[40] The Exchange states that this amendment simply rewords the rule text without a

[10] The Exchange states that General 2, Section 22 describes Sponsored Access arrangements. *See* Notice, 89 FR at 57486 n.4.

[11] *See* Notice, 89 FR at 57486.

[12] The Exchange states that the term ''System'' or ''Trading System'' means the automated system for order execution and trade reporting owned and operated by BX as the BX Options market. *See* Notice, 89 FR at 57486 n.5. The Exchange states that BX Options market comprises: (A) an order execution service that enables Participants to automatically execute transactions in option series; and provides Participants with sufficient monitoring and updating capability to participate in an automated execution environment; (B) a trade reporting service that submits ''locked-in'' trades for clearing to a registered clearing agency for clearance and settlement; transmits last-sale reports of transactions automatically to the Options Price Reporting Authority for dissemination to the public and industry; and provides participants with monitoring and risk management capabilities to facilitate participation in a ''locked-in'' trading environment; and (C) the data feeds described in Options 3, Section 23. *See id.* (citing BX Options 1, Section 1(a)(59)).

[13] *See* Notice, 89 FR at 57486.

[14] *See* Notice, 89 FR at 57486.

[15] *See* Notice, 89 FR at 57486.

[16] *See* Notice, 89 FR at 57486.

[17] *See* Notice, 89 FR at 57486.

[18] *See* Notice, 89 FR at 57486.

[19] *See* Notice, 89 FR at 57486.

[20] *See* Notice, 89 FR at 57486.

[21] *See* Notice, 89 FR at 57486.

[22] *See* Notice, 89 FR at 57486.

[23] *See* Notice, 89 FR at 57486.

[24] *See* Notice, 89 FR at 57486.

[25] *See* Notice, 89 FR at 57486.

[26] *See* Notice, 89 FR at 57486.

[27] *See* Notice, 89 FR at 57486.

[28] *See* Notice, 89 FR at 57486.

[29] *See* Notice, 89 FR at 57486.

[30] *See* Notice, 89 FR at 57486.

[31] *See* Notice, 89 FR at 57486.

[32] *See* Notice, 89 FR at 57486.

[33] *See* Notice, 89 FR at 57486.

[34] *See* Notice, 89 FR at 57486.

[35] *See* Notice, 89 FR at 57486.

[36] *See* Notice, 89 FR at 57486.

[37] *See* Notice, 89 FR at 57486.

[38] *See* Notice, 89 FR at 57486.

[39] *See* Notice, 89 FR at 57487 (citing MRX Options 3, Section 17).

[40] *See* Notice, 89 FR at 57487.

substantive amendment to the rule text.[41]

The Exchange states that it proposes to renumber Options 3, Section 17(a)(i) and (ii) as (a)(1) and (2).[42] The Exchange states that current Options 3, Section 17(a)(i) states, ''If orders are cancelled by the BX Participant utilizing the Kill Switch, it will result in the cancellation of all orders requested for the Identifier(s). The BX Participant will be unable to enter additional orders for the affected Identifier(s) until re-entry has been enabled pursuant to section (a)(ii).'' [43] The Exchange states that it proposes to instead provide, ''A BX Participant may submit a request to the System through FIX or OTTO to cancel all existing orders and restrict entry of additional orders for the requested Identifier(s) on a user level on the Exchange.'' [44] The Exchange states that with the addition of OTTO, the Exchange notes that both FIX and OTTO orders may be cancelled.[45] The Exchange states that further, today, BX Participants utilize an interface to send a message to the Exchange to initiate a Kill Switch.[46] The Exchange notes that in lieu of the interface, BX Participants will only be able to initiate a cancellation of their orders by sending a mass purge request through FIX or OTTO.[47] The Exchange states that this change will align the Kill Switch functionality to that of ISE, GEMX and MRX Options 3, Section 17 and will enable BX Participants to initiate the Kill Switch more seamlessly without the need to utilize a separate interface.[48] The Exchange states that when initiating a cancellation of their orders by sending a mass purge request through FIX or OTTO, Participants will be able to submit a Kill Switch request on a user level only.[49] The Exchange states that this is a change from the ability to cancel orders on either a user or group level [50] with the interface.[51] The Exchange states that it proposes to amend Options 3, Section 17(a) to note this change by removing the words ''or group'' and the following sentence that applies to a group.[52]

The Exchange states that finally, the Exchange proposes to amend proposed Options 3, Section 17(a)(2) to align to MRX's rule text by providing ''Once a BX Participant initiates a Kill Switch pursuant to (a)(1) above. . .'' in the first sentence.[53] The Exchange states that this amendment simply rewords the rule text without a substantive amendment to the rule text.[54]

Options 3, Section 18

The Exchange states that it proposes to amend Options 3, Section 18, Detection of Loss of Communication.[55] The Exchange states that it proposes to add OTTO to Options 3, Section 18 as OTTO would also be subject to this rule.[56] The Exchange states that today, when the SQF Port or the FIX Port detects the loss of communication with a Participant's Client Application because the Exchange's server does not receive a Heartbeat message for a certain time period, the Exchange will automatically logoff the Participant's affected Client Application and automatically cancel all of the Participant's open quotes through SQF and open orders through FIX.[57] The Exchange states that quotes and orders are cancelled across all Client Applications that are associated with the same BX Options Market Maker ID and underlying issues.[58]

The Exchange states that at this time, the Exchange proposes to permit orders entered through OTTO to be cancelled similar to FIX orders when the Exchange's server does not receive a Heartbeat message for a certain time period.[59] The Exchange states that it is proposing to amend Options 3, Section 18 to also rearrange the rule text to add the word ''Definitions'' next to ''a'' and move the rule text in current ''a'' to ''b'' and re-letter the other paragraphs accordingly.[60] Also, the Exchange states that it proposes to define ''Session of Connectivity'' for purposes of this rule to mean each time the Participant connects to the Exchange's System.[61] The Exchange states that further, each new connection, intra-day or otherwise, is a new Session of Connectivity.[62] The Exchange states that it proposes to use the new definition throughout Options 3, Section 18.[63]

The Exchange states that similar to FIX, when the OTTO Port detects the loss of communication with a Participant's Client Application because the Exchange's server does not receive a Heartbeat message for a certain time period, the Exchange will automatically logoff the Participant's affected Client Application and automatically cancel all of the Participant's open orders through OTTO.[64] The Exchange states that orders would be cancelled across all Client Applications that are associated with the same BX Options Market Maker ID and underlying issues.[65] The Exchange states that it proposes to update Options 3, Section 18 to provide in proposed Options 3, Section 18(a)(3) that the OTTO Port is the Exchange's proprietary System component through which Participants communicate their orders from the Client Application.[66] The Exchange states that further, the Exchange would note in proposed Options 3, Section 18(c) that when the OTTO Port detects the loss of communication with a Participant's Client Application because the Exchange's server does not receive a Heartbeat message for a certain time period (''nn'' seconds), the Exchange will automatically logoff the Participant's affected Client Application and if the Participant has elected to have its orders cancelled pursuant to proposed Section 18(f), automatically cancel all orders.[67] The Exchange states that proposed Options 3, Section 18(f) would provide that the default period of ''nn'' seconds for OTTO Ports would be fifteen (15) seconds for the disconnect and, if elected, the removal of orders.[68] The Exchange states that a Participant may determine another time period of ''nn'' seconds of no technical connectivity, as required in proposed paragraph (c), to trigger the disconnect and, if so elected, the removal of orders and communicate that time to the Exchange.[69] The Exchange states the period of ''nn'' seconds may be modified to a number between one

[41] *See* Notice, 89 FR at 57487.

[42] *See* Notice, 89 FR at 57487.

[43] *See* Notice, 89 FR at 57487.

[44] *See* Notice, 89 FR at 57487.

[45] *See* Notice, 89 FR at 57487.

[46] *See* Notice, 89 FR at 57487 (citing Securities Exchange Act Release No. 76116 (October 8, 2015), 80 FR 62147 (October 15, 2015) (SR–BX–2015–050) (Order Approving Proposed Rule Change To Adopt a Kill Switch)).

[47] *See* Notice, 89 FR at 57487.

[48] *See* Notice, 89 FR at 57487.

[49] *See* Notice, 89 FR at 57487.

[50] The Exchange states that a permissible group could include all badges associated with a Market Maker. *See* Notice, 89 FR at 57487 n.9. The Exchange states that today, a Participant is able to set up these groups in the interface to include all or some of the Identifiers associated with the Participant firm so that a GUI Kill Switch request could apply to this pre-defined group. *Id.*

[51] *See* Notice, 89 FR at 57487.

[52] *See* Notice, 89 FR at 57487. The Exchange also states that it proposes to remove this sentence, ''Permissible groups must reside within a single broker-dealer'' as the group option would no longer exist. *Id.* at n.10.

[53] *See* Notice, 89 FR at 57487.

[54] *See* Notice, 89 FR at 57487.

[55] *See* Notice, 89 FR at 57487.

[56] *See* Notice, 89 FR at 57487.

[57] *See* Notice, 89 FR at 57487.

[58] *See* Notice, 89 FR at 57487.

[59] *See* Notice, 89 FR at 57487.

[60] *See* Notice, 89 FR at 57487.

[61] *See* Notice, 89 FR at 57487.

[62] *See* Notice, 89 FR at 57487.

[63] *See* Notice, 89 FR at 57487.

[64] *See* Notice, 89 FR at 57487.

[65] *See* Notice, 89 FR at 57487.

[66] *See* Notice, 89 FR at 57487.

[67] *See* Notice, 89 FR at 57487.

[68] *See* Notice, 89 FR at 57487.

[69] *See* Notice, 89 FR at 57487.

hundred (100) milliseconds and 99,999 milliseconds for OTTO Ports prior to each Session of Connectivity to the Exchange.[70] The Exchange states that this feature may be disabled for the removal of orders, however the Participant will be disconnected.[71]

The Exchange states that proposed Options 3, Section 18(f)(1) would provide that if the Participant changes the default number of ''nn'' seconds, that new setting shall be in effect throughout the current Session of Connectivity and will then default back to fifteen seconds.[72] The Exchange states that a Participant may change the default setting prior to each Session of Connectivity.[73] The Exchange states that finally, as proposed in Options 3, Section 18(f)(2), if the time period is communicated to the Exchange by calling Exchange operations, the number of ''nn'' seconds selected by the Participant will persist for each subsequent Session of Connectivity until the Participant either contacts Exchange operations by phone and changes the setting or the Participant selects another time period through the Client Application prior to the next Session of Connectivity.[74] The Exchange states that the trigger for OTTO Ports is event and Client Application specific.[75] The Exchange states that automatic cancellation of the BX Options Market Maker's open orders for OTTO Ports entered into the respective OTTO Ports via a particular Client Application will neither impact nor determine the treatment of orders of the same or other Participants entered into the OTTO Ports via a separate and distinct Client Application.[76] The Exchange states that the proposed amendments for OTTO mirror the manner in which FIX Ports are treated when the Exchange's server does not receive a Heartbeat message for a certain time period for a FIX Port.[77]

Pricing

The Exchange states that it proposes to amend its Pricing Schedule at Options 7, Section 3, BX Options Market—Ports and other Services, to assess a port fee for the new OTTO protocol.[78]

The Exchange states that it proposes to assess an OTTO Port Fee of $650 per port, per month, per account number.[79]

The Exchange states that it also proposes to add OTTO and Disaster Recovery Ports to the list of ports that are capped at $7,500 on BX.[80] The Exchange states that today, the maximum monthly fees in the aggregate for FIX Port, CTI Port, FIX DROP Port, BX Depth Port and BX TOP Port Fees on BX is $7,500.[81] The Exchange states that these ports are available to all BX Participants.[82] The Exchange states that, for example, to the extent that a Participant expended more than $7,500 for FIX or OTTO Ports, BX would not charge a Participant for additional FIX or OTTO Ports, respectively, beyond the cap.[83] The Exchange also states that it will provide each Participant the first FIX Port at no cost to submit orders into BX.[84]

Implementation

The Exchange states that it will implement this rule change on or before December 20, 2025, and that it will announce the operative date to Participants in an Options Trader Alert.[85]

III. Suspension of the Proposed Rule Change

Pursuant to Section 19(b)(3)(C) of the Act,[86] at any time within 60 days of the date of filing of an immediately effective proposed rule change pursuant to Section 19(b)(1) of the Act,[87] the Commission summarily may temporarily suspend the change in the rules of a self-regulatory organization (''SRO'') if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. A temporary suspension of the proposed rule changes is necessary and appropriate to allow for additional analysis of the proposed rule change's consistency with the Act and the rules thereunder.

A. Exchange Statements In Support of the Proposal

Exchange Arguments Concerning Sections 6(b)(4) and 6(b)(5) of the Act

The Exchange states that the Exchange believes that its proposal is consistent with Section 6(b) of the Act,[88] in general, and furthers the objectives of Section 6(b)(5) of the Act,[89] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange states that, additionally, the Exchange believes that its proposal furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[90] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[91]

OTTO Protocol

The Exchange states that the Exchange's proposal to adopt OTTO is consistent with the Act because OTTO would provide BX Participants with an alternative protocol to submit orders to the Exchange.[92] The Exchange states that as proposed, BX would offer the first OTTO Port at no cost to submit orders into BX, which would remove impediments to and perfect the mechanism of a free and open market.[93] The Exchange states that while BX Participants may elect to obtain multiple ports to organize their business,[94] only one order port is necessary for a Participant to enter orders on BX.[95] The Exchange states

[70] *See* Notice, 89 FR at 57487.

[71] *See* Notice, 89 FR at 57487.

[72] *See* Notice, 89 FR at 57487.

[73] *See* Notice, 89 FR at 57487.

[74] *See* Notice, 89 FR at 57487.

[75] *See* Notice, 89 FR at 57487.

[76] *See* Notice, 89 FR at 57487–88.

[77] *See* Notice, 89 FR at 57488. The Exchange states that it proposes to update internal cross-references to accommodate relocated text. *Id.*

[78] *See* Notice, 89 FR at 57488.

[79] *See* Notice, 89 FR at 57488. The Exchange states that the term ''account number'' means a number assigned to a Participant. The Exchange states that only one account number is necessary to transact an options business of BX and that Participants may have more than one account number. *See* Notice, 89 FR at 57488 n.12 (citing Options 1, Section 1(a)(2)). The Exchange states that account numbers are free on BX. *Id.*

[80] *See* Notice, 89 FR at 57488. The Exchange notes that BX currently does not assess BX Participants for Disaster Recovery Ports. *See* Notice, 89 FR at 57488 (citing BX Options 7, Section 3).

[81] *See* Notice, 89 FR at 57488 (BX Options 7, Section 3(i)).

[82] *See* Notice, 89 FR at 57488.

[83] *See* Notice, 89 FR at 57488.

[84] *See* Notice, 89 FR at 57488.

[85] *See* Notice, 89 FR at 57488.

[86] 15 U.S.C. 78s(b)(3)(C).

[87] 15 U.S.C. 78s(b)(1).

[88] *See* Notice, 89 FR at 57488 (citing 15 U.S.C. 78f(b)).

[89] *See* Notice, 89 FR at 57488 (citing 15 U.S.C. 78f(b)(5)).

[90] *See* Notice, 89 FR at 57488 (citing 15 U.S.C. 78f(b)(4) and (5)).

[91] *See* Notice, 89 FR at 57488.

[92] *See* Notice, 89 FR at 57488.

[93] *See* Notice, 89 FR at 57488.

[94] The Exchange states that, for example, a Participant may desire to utilize multiple FIX or OTTO Ports for accounting purposes, to measure performance, for regulatory reasons or other determinations that are specific to that Participant. *See* Notice, 89 FR at 57488 n.14 and 57489 n.27.

[95] *See* Notice, 89 FR at 57489. The Exchange states that only BX Participants may utilize ports on BX and that any market participant that sends orders to a BX Participant would not need to utilize a port. *See* Notice, 89 FR at 57486.

that a BX Participant may send all orders, proprietary and agency, through one port to BX without incurring any cost with this proposal.[96] The Exchange states that in the alternative, BX Participants may elect to obtain multiple ports to organize their business.[97]

The Exchange states that with the addition of OTTO, a BX Participant may elect to enter their orders through FIX, OTTO, or both protocols, although both protocols are not necessary.[98] The Exchange states that each BX Participant would receive one OTTO Port at no cost, thereby promoting just and equitable principles of trade.[99] The Exchange notes that Participants may prefer one order protocol as compared to another order protocol, for example, the ability to route an order may cause a Participant to utilize FIX and a Participant that desires to execute an order locally may utilize OTTO.[100] The Exchange states that also, the OTTO Port offers lower latency as compared to the FIX Port, which may be attractive to Participants depending on their trading behavior.[101] The Exchange states that with this proposal, BX Participant may organize their business as they chose with the ability to send orders to BX at no cost.[102] The Exchange states that the proposed new OTTO protocol is identical to the OTTO protocol offered today on ISE, GEMX, MRX.[103]

Other Amendments

The Exchange that in connection with offering OTTO, the Exchange proposes to amend other rules within Options 3 to make clear where the FIX and OTTO protocols may be utilized.[104] The Exchange states that IOC Orders may be entered through FIX, OTTO or SQF, a Day order may be entered through FIX or OTTO, a GTC order may only be entered through FIX, and a Public Customer-to-Public Customer Cross Order may be entered through FIX or OTTO.[105] The Exchange states that other processes such the Opening Cancel Timer would impact FIX and OTTO equally.[106]

The Exchange states that the Exchange's proposal to amend the Kill Switch at Options 3, Section 17 to align its rule text in proposed Options 3, Section 17(a) and (a)(2) with MRX's Options 3, Section 17 is consistent with the Act because it does not substantively amend the functionality beyond removing the group level cancel capability.[107] The Exchange states that the Exchange's proposal to amend proposed Options 3, Section 17(a)(2) to specify that FIX and OTTO orders may be cancelled is consistent with the Act as it will make clear that all orders entered on BX may be purged through the Kill Switch.[108] The Exchange states that finally, allowing BX Participants to send a mass purge request through FIX or OTTO, in lieu of an interface, is consistent with Act and the protection of investors and the general public because it will enable BX Participants to initiate the Kill Switch more seamlessly without the need to utilize a separate interface.[109] The Exchange states that further, utilizing the order protocols directly, in lieu of the interface, will align the Kill Switch functionality to that of ISE, GEMX and MRX.[110] The Exchange states that when initiating a cancellation of their orders by sending a mass purge request through FIX or OTTO, Participants will be able to submit a Kill Switch request on a user level only because the purge will be specific to a FIX or OTTO user for these ports.[111]

The Exchange states that finally, the Detection of Loss of Communication would apply equally to FIX and OTTO.[112] The Exchange believes that its proposal is consistent with the Act and protects investors as the Exchange is making clear what types of order types and other mechanisms may utilize OTTO.[113] The Exchange states that today, BX Participants utilize FIX to enter their orders.[114] The Exchange states that despite the fact that OTTO would not be available for the GTC Time-In-Force modifier, the Exchange notes that one OTTO Port is being provided to Participants at no cost.[115] The Exchange states that today, FIX is the only manner in which to enter orders into BX.[116]

Pricing

Proposed Port Fees Are Reasonable, Equitable and Not Unfairly Discriminatory

The Exchange states that only one FIX order protocol is required for a BX Participant to submit orders into BX and to meet its regulatory requirements[117] at no cost while meeting its regulatory requirements.[118] The Exchange states that the Exchange will provide each Participant the first FIX Port at no cost to submit orders into BX.[119] The Exchange states that only one account number is necessary to transact an options business on BX and account numbers are available to Participants at no cost.[120]

The Exchange states that the Exchange proposes to offer each Participant the first FIX Port at no cost to meet their regulatory requirements.[121] The Exchange states as noted above, Participants may freely choose to rely on one or many ports, depending on their business model.[122]

The Exchange states that the Exchange's proposal is reasonable, equitable and not unfairly discriminatory as BX is providing BX Participants the first FIX Port to submit orders at no cost.[123] The Exchange states that these ports, which are offered at no cost, would allow a BX Participant to meet its regulatory requirements.[124] The Exchange states that all other ports offered by BX are not required for a BX Participant to meet its regulatory obligations.[125] The Exchange states that therefore, for the foregoing reasons, it is reasonable to assess no fee for the first FIX Port obtained by a Participant as a BX Participant is able to meet its regulatory requirements with these ports.[126] The Exchange states that additionally, the proposal offers a free FIX Port to BX Participants that already subscribe to FIX, thereby reducing fees for these market participants.[127]

The Exchange states that further, it is equitable and not unfairly discriminatory to assess no fee for the first FIX Port to Participants as all BX

[96] *See* Notice, 89 FR at 57489.
[97] *See* Notice, 89 FR at 57489.
[98] *See* Notice, 89 FR at 57489.
[99] *See* Notice, 89 FR at 57489.
[100] *See* Notice, 89 FR at 57489.
[101] *See* Notice, 89 FR at 57489.
[102] *See* Notice, 89 FR at 57489.
[103] *See* Notice, 89 FR at 57489.
[104] *See* Notice, 89 FR at 57489.
[105] *See* Notice, 89 FR at 57489.
[106] *See* Notice, 89 FR at 57489.
[107] *See* Notice, 89 FR at 57489.
[108] *See* Notice, 89 FR at 57489.
[109] *See* Notice, 89 FR at 57489.
[110] *See* Notice, 89 FR at 57489.
[111] *See* Notice, 89 FR at 57489.
[112] *See* Notice, 89 FR at 57489.
[113] *See* Notice, 89 FR at 57489.
[114] *See* Notice, 89 FR at 57489.
[115] *See* Notice, 89 FR at 57489.
[116] *See* Notice, 89 FR at 57489.
[117] The Exchange states that BX Participants have trade-through requirements under Regulation NMS as well as broker-dealers' best execution obligations. *See* Notice, 89 FR at 57489 n.20 (citing Rule 611 of Regulation NMS; 17 CFR 242.611 and FINRA Rule 5310).
[118] *See* Notice, 89 FR at 57489.
[119] *See* Notice, 89 FR at 57489.
[120] *See* Notice, 89 FR at 57489.
[121] *See* Notice, 89 FR at 57489.
[122] *See* Notice, 89 FR at 57489.
[123] *See* Notice, 89 FR at 57489.
[124] *See* Notice, 89 FR at 57489.
[125] *See* Notice, 89 FR at 57489.
[126] *See* Notice, 89 FR at 57489.
[127] *See* Notice, 89 FR at 57489.

Participants would be entitled to the first FIX Port at no cost.[128] The Exchange states that with this proposal, BX Participants may organize their business in such a way as to submit orders to BX at no cost.[129]

The Exchange states that the Exchange's proposal to assess $650 per port, per month, per account number for an OTTO Port is reasonable because OTTO is not required for a Participant to meet its regulatory requirements.[130] The Exchange states that it is offering the first FIX Port at no cost to submit orders to BX.[131] The Exchange states that in addition to the FIX Port, all Participants may elect to purchase OTTO to submit orders to BX.[132] The Exchange states that BX Participants utilizing the FIX Port, which is offered at no cost, do not need to utilize OTTO.[133]

The Exchange states that finally, in the event that a BX Participant elects to subscribe to multiple ports, the Exchange offers a monthly cap beyond which a Participant would be assessed no additional fees for the month and proposes to add OTTO to the monthly cap.[134] The Exchange states that BX proposes to cap FIX Port, OTTO Port, CTI Port, FIX Drop Port, BX Depth Port, BX TOP Port Fees, and all Disaster Recovery Port Fees [135] at a monthly cap of $7,500.[136] The Exchange states that these caps are reasonable because they allow Participants to limit their fees beyond a certain level if they elect to purchase multiple ports in a given month.[137] The Exchange states that the caps are also equitable and not unfairly discriminatory because any Participant will be subject to the cap, provided they exceeded the appropriate dollar amount in a given month.[138] The Exchange states that these ports are available to all BX Participants.[139]

The Exchange states that the proposed BX OTTO fee is the same as the OTTO Port fee on MRX, for the identical port.[140] The Exchange states that additionally, MRX offers one free FIX Port to its Members and assesses the same FIX Port fee of $650 per port, per month, per account number as BX assesses today for a FIX Port. The Exchange states that MRX offers its Members a free FIX Disaster Recovery Port.[141] The Exchange states that today, BX does not assess Disaster Recovery Port fees.[142] The Exchange states that finally, today, MRX offers a $7,500 monthly cap for OTTO Ports, CTI Ports, FIX Ports, FIX Drop Ports and all Disaster Recovery Ports.[143] The Exchange states that BX's proposed monthly cap includes BX Depth Ports and BX Top Ports, which are currently assessed fees of $650 per port, per month, in addition to the same ports that are capped on MRX (FIX Ports, OTTO Ports, CTI Ports, FIX DROP Ports, and all Disaster Recovery Ports).[144]

Exchange Arguments Concerning Competition and Section 6(b)(8)

The Exchange states that the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[145]

The Exchange states that the OTTO protocol is a proprietary protocol of Nasdaq, Inc.[146] The Exchange states that the Exchange continues to innovate and modernize technology so that it may continue to compete among options markets.[147] The Exchange states that the ability to continue to innovate with technology and offer new products to market participants allows BX to remain competitive in the options space which currently has seventeen options markets and potential new entrants.[148] The Exchange states that if BX were unable to offer and price new protocols, it would result in an undue burden on competition as BX would not have the ability to innovate and modernize its technology to compete effectively in the options space.[149] The Exchange states that BX's ability to offer OTTO will enable it to compete with other options markets that provide its market participants a choice as to the type of order entry protocols that may be utilized.[150] The Exchange states that BX's ability to offer and price new and innovative products and continue to modernize its technology, similar to other options markets, supports intermarket competition.[151]

OTTO Protocol

The Exchange states that the Exchange's proposal to adopt an OTTO Protocol does not impose an undue burden on intramarket competition.[152] The Exchange states that today, all BX Participants utilize FIX to send orders to BX.[153] The Exchange states that the Exchange would offer each BX Participant the first FIX Port at no cost with this proposal.[154] The Exchange states that with the addition of OTTO Ports, a BX Participant may elect to enter their orders through FIX, OTTO, or both protocols, although both protocols are not necessary.[155] The Exchange states that the Exchange's proposal to adopt an OTTO Protocol does not impose an undue burden on intermarket competition as other options exchanges offer multiple protocols today such as ISE, GEMX and MRX.[156]

Other Amendments

The Exchange states that the Exchange's proposal to amend other rules within Options 3 to make clear where the FIX and OTTO protocols may be utilized does not impose an undue burden on intramarket competition as these rules will apply in the same manner to all Participants.[157] The Exchange states that the Exchange's proposal to amend other rules within Options 3 to make clear where the FIX and OTTO protocols may be utilized does not impose an undue burden on intermarket competition as other options exchanges may elect to utilize their order entry protocols in different ways.[158]

Pricing

The Exchange states that nothing in the proposal burdens inter-market competition because BX's proposal to offer the first FIX Port for free is similar to MRX's FIX Port offering and allows BX Participants to meet their regulatory obligations.[159] The Exchange states that

[128] *See* Notice, 89 FR at 57489.
[129] *See* Notice, 89 FR at 57489.
[130] *See* Notice, 89 FR at 57489.
[131] *See* Notice, 89 FR at 57489.
[132] *See* Notice, 89 FR at 57489.
[133] *See* Notice, 89 FR at 57489.
[134] *See* Notice, 89 FR at 57489.
[135] The Exchange states that BX does not assess fees for Disaster Recovery Ports. *See* Notice, 89 FR at 57489 n.30.
[136] *See* Notice, 89 FR at 57489.
[137] *See* Notice, 89 FR at 57489.
[138] *See* Notice, 89 FR at 57489.
[139] *See* Notice, 89 FR at 57489.
[140] *See* Notice, 89 FR at 57490.
[141] *See* Notice, 89 FR at 57490 (citing MRX Options 7, Section 6).
[142] *See* Notice, 89 FR at 57490 (citing BX Options 7, Section 3).
[143] *See* Notice, 89 FR at 57490 (citing MRX Options 7, Section 6).
[144] *See* Notice, 89 FR at 57490. The Exchange states that, therefore, BX's proposed cap can also be obtained utilizing BX Depth Port and BX Top Port in addition to the same ports that MRX aggregates for purposes of the monthly cap. *See* Notice, 89 FR at 57488.
[145] *See* Notice, 89 FR at 57490.
[146] *See* Notice, 89 FR at 57490.
[147] *See* Notice, 89 FR at 57490.
[148] *See* Notice, 89 FR at 57490.
[149] *See* Notice, 89 FR at 57490.
[150] *See* Notice, 89 FR at 57490.
[151] *See* Notice, 89 FR at 57490.
[152] *See* Notice, 89 FR at 57490.
[153] *See* Notice, 89 FR at 57490.
[154] *See* Notice, 89 FR at 57490.
[155] *See* Notice, 89 FR at 57490.
[156] *See* Notice, 89 FR at 57490.
[157] *See* Notice, 89 FR at 57490.
[158] *See* Notice, 89 FR at 57490.
[159] *See* Notice, 89 FR at 57490.

BX's offering would permit Participants the ability to submit orders to BX at no cost.[160] The Exchange states that OTTO Ports are not required for BX Participants to meet their regulatory obligations.[161]

The Exchange states that nothing in the proposal burdens intra-market competition because the Exchange would uniformly assess the port fees to all Participants, as applicable, and would uniformly apply monthly caps.[162] The Exchange states that the proposed fees are identical to fees recently approved on MRX.[163] The Exchange states that the proposed BX OTTO fee is the same as the OTTO Port fee on MRX, for the identical port.[164] The Exchange states that additionally, MRX offers one free FIX Port to its Members and assesses the same FIX Port fee of $650 per port, per month, per account number as BX assessed today for FIX.[165] The Exchange states that MRX also offers a free FIX Disaster Recovery Port.[166] The Exchange states that today, BX does not assess Disaster Recovery Port fees.[167] The Exchange states that finally, today, MRX offers a $7,500 monthly cap for OTTO Ports, CTI Ports, FIX Ports, FIX Drop Ports and all Disaster Recovery Ports.[168] The Exchange states that BX's proposed monthly cap includes BX Depth Ports and BX Top Ports, which are assessed fees of $650 per port, per month, in addition to the same ports that are capped on MRX (FIX Ports, OTTO Ports, CTI Ports, FIX DROP Ports, and all Disaster Recovery Ports).[169]

The Exchange states that to the extent that the Commission does not permit BX to assess the same identical fees for the same identical products on its market, the Commission is creating a burden on competition by allowing MRX to assess fees and offer a product that would otherwise be unavailable on BX.[170] The Exchange states that additionally, the proposal offers a free FIX Port to BX Participants that already subscribe to FIX, the only order port currently offered on BX, thereby reducing fees for these market participants.[171] The Exchange states that each SRO should be permitted to mirror fees assessed by another SRO to further competition among the exchanges.[172]

B. Suspension

When exchanges file their proposed rule changes with the Commission, including fee filings like the Exchange's present proposal, they are required to provide a statement supporting the proposal's basis under the Act and the rules and regulations thereunder applicable to the exchange.[173] The instructions to Form 19b–4, on which exchanges file their proposed rule changes, specify that such statement ''should be sufficiently detailed and specific to support a finding that the proposed rule change is consistent with [those] requirements.'' [174]

Section 6 of the Act, including Sections 6(b)(4), (5), and (8), require the rules of an exchange to: (1) provide for the equitable allocation of reasonable fees among members, issuers, and other persons using the exchange's facilities; [175] (2) perfect the mechanism of a free and open market and a national market system, protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; [176] and (3) not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[177]

In temporarily suspending the Exchange's proposed rule change, the Commission intends to further consider whether the Proposal is consistent with the statutory requirements applicable to a national securities exchange under the Act. In particular, the Commission will consider whether the proposed rule change satisfies the standards under the Act and the rules thereunder requiring, among other things, that an exchange's rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; not permit unfair discrimination between customers, issuers, brokers or dealers; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[178]

Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to temporarily suspend the proposed rule change.[179]

IV. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Changes

In addition to temporarily suspending the Proposal, the Commission also hereby institutes proceedings pursuant to Sections 19(b)(3)(C) [180] and 19(b)(2)(B) of the Act [181] to determine whether the Exchange's proposed rule change should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[182] the Commission is providing notice of the grounds for possible disapproval under consideration:

- Whether the Exchange has demonstrated how the proposed fees are consistent with Section 6(b)(4) of the Act, which requires that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities''; [183]
- Whether the Exchange has demonstrated how the proposed fees are consistent with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange not be ''designed to permit unfair discrimination between

[160] *See* Notice, 89 FR at 57490.

[161] *See* Notice, 89 FR at 57490.

[162] *See* Notice, 89 FR at 57490.

[163] *See* Securities Exchange Commission Release No. 96824 (February 7, 2023), 88 FR 8975 (February 10, 2023) (SR–MRX–2023–05).

[164] *See* Notice, 89 FR at 57490.

[165] *See* MRX Options 7, Section 6.

[166] Id.

[167] *See* BX Options 7, Section 3. BX is adding Disaster Recovery Ports to its monthly cap.

[168] *See* MRX Options 7, Section 6.

[169] *See* Notice, 89 FR at 57490.

[170] *See* Notice, 89 FR at 57490.

[171] *See* Notice, 89 FR at 57490.

[172] *See* Notice, 89 FR at 57490.

[173] *See* 17 CFR 240.19b–4(Item 3 entitled ''Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change'').

[174] *See id.*

[175] 15 U.S.C. 78f(b)(4).

[176] 15 U.S.C. 78f(b)(5).

[177] 15 U.S.C. 78f(b)(8).

[178] *See* 15 U.S.C. 78f(b)(4), (5), and (8), respectively.

[179] For purposes of temporarily suspending the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[180] 15 U.S.C. 78s(b)(3)(C). Once the Commission temporarily suspends a proposed rule change, Section 19(b)(3)(C) of the Act requires that the Commission institute proceedings under Section 19(b)(2)(B) to determine whether a proposed rule change should be approved or disapproved.

[181] 15 U.S.C. 78s(b)(2)(B).

[182] *Id.* Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *See id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding, or if the exchange consents to the longer period. *See id.*

[183] 15 U.S.C. 78f(b)(4).

customers, issuers, brokers, or dealers''; [184] and

• Whether the Exchange has demonstrated how the proposed fees are consistent with Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].'' [185]

As discussed in Section III above, the Exchange made various arguments in support of the Proposal. There are questions as to whether the Exchange has provided sufficient information to demonstrate that the proposed fees are consistent with the Act and the rules thereunder. The Commission will specifically consider, among other things, whether the Exchange has provided sufficient evidence to demonstrate that the proposed fees are reasonable and equitably allocated, are not unfairly discriminatory, and do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.'' [186] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[187] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[188]

The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein, including as to whether the proposed fees are consistent with the Act, and specifically, with its requirements that exchange fees be reasonable and equitably allocated, not be unfairly discriminatory, and not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[189]

[184] 15 U.S.C. 78f(b)(5).

[185] 15 U.S.C. 78f(b)(8).

[186] 17 CFR 201.700(b)(3).

[187] *See id.*

[188] *See id.*

[189] *See* 15 U.S.C. 78f(b)(4), (5), and (8).

V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as any other relevant concerns. Such comments should be submitted by September 19, 2024. Rebuttal comments should be submitted by October 3, 2024. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[190]

The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the Proposal, in addition to any other comments they may wish to submit about the proposed rule changes.

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include file number SR–BX–2024–019 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–BX–2024–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–BX–2024–019 and should be submitted on or before September 19, 2024. Rebuttal comments should be submitted by October 3, 2024.

[190] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by an SRO. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(3)(C) of the Act,[191] that File No. SR–BX–2024–019, be and hereby is, temporarily suspended. In addition, the Commission is instituting proceedings to determine whether the proposed rule change should be approved or disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[192]

Vanessa A. Countryman,

Secretary.

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[191] 15 U.S.C. 78s(b)(3)(C).

[192] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100811; File No. SR–NYSEARCA–2024–67]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Fees and Charges

August 23, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 14, 2024, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (''Fee Schedule'') to adopt an alternative requirement to qualify for the Tape B Tier 3 pricing tier and increase the cap of the additional credit payable for providing liquidity under the Tape B Tiers pricing tier. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt an alternative requirement to qualify for the Tape B Tier 3 pricing tier and increase the cap of the additional credit payable for providing liquidity under the Tape B Tiers pricing tier. The Exchange proposes to implement the fee changes effective August 14, 2024.[3]

Background

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [4]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [5] Indeed, equity trading is currently dispersed across 16 exchanges,[6] numerous alternative trading systems,[7] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange currently has more than 20% market share.[8] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange currently has less than 12% market share of executed volume of equities trading.[9]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which the firm routes order flow. With respect to non-marketable order flow that would provide liquidity on an Exchange against which market makers can quote, ETP Holders can choose from any one of the 16 currently operating registered exchanges to route such order flow. Accordingly, competitive forces compel the Exchange to use exchange transaction fees and credits because market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

Proposed Rule Change

Tape B Tier 3

Currently, under the Tape B Tier 3 pricing tier, an ETP Holder could qualify for a credit of $0.0025 per share [10] for adding liquidity in Tape B Securities by meeting one of the following two requirements. An ETP Holder could qualify for the current credit if such ETP Holder (1) has Adding ADV of Tape B CADV that is equal to at least 0.20% of the Tape B CADV and (2) has Market Maker Electronic Posting Volume of TCADV of at least 0.50% by an OTP Holder or OTP Firm affiliated with the ETP Holder. Alternatively, the ETP Holder could qualify for the current credit if such ETP Holder has Adding ADV of Tape B CADV that is equal to at least 0.15% over the ETP Holder's April 2020 Adding ADV taken as a percentage of Tape B CADV.[11]

The Exchange proposes to adopt another alternative method that ETP Holders could utilize to qualify for the Tape B Tier 3 credit. As proposed, an ETP Holder could qualify for the Tape B Tier 3 credit of $0.0025 per share for adding liquidity in Tape B securities if such ETP Holder is registered as a Lead Market Maker [12] or Market Maker [13] in at

[3] The Exchange originally filed to amend the Fee Schedule on August 1, 2024 (SR–NYSEARCA–2024–64). SR–NYSEARCA–2024–64 was subsequently withdrawn and replaced by this filing.

[4] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[5] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[6] *See* Cboe U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share.*

[7] *See* FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is available at *https://www.sec.gov/foia/docs/atslist.htm.*

[8] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[9] *See id.*

[10] Under Section III of the Fee Schedule—Standard Rates, ETP Holders receive a credit of $0.0020 per share for orders that add liquidity in Tape B securities. Additionally, in securities priced at or above $1.00, an additional credit in Tape B securities may be available to Lead Market Makers (''LMMs'') and to Market Makers affiliated with LMMs that add displayed liquidity based on the number of Less Active ETP Securities in which the LMM is registered as the LMM. The applicable tiered-credits are noted on the Fee Schedule under LMM Transaction Fees and Credits.

[11] *See* Fee Schedule, Tier 3 under Tape B Tiers pricing table.

[12] The term ''Lead Market Maker'' is defined in Rule 1.1(w) to mean a registered Market Maker that is the exclusive Designated Market Maker in listings for which the Exchange is the primary market.

[13] Pursuant to Rule 7.23–E(a)(1), all registered Market Makers, including LMMs, have an obligation to maintain continuous, two-sided trading interest in those securities in which the Market Marker is registered to trade. In addition, pursuant to Rule 7.24–E(b), LMMs are held to higher performance standards in the securities in which they are registered as LMM. LMMs can earn additional financial incentives for meeting the higher performance standards specified from time to time in the Fee Schedule. Only one LMM can be registered in a NYSE-Arca listed security, but that security can have an unlimited number of registered Market Makers. Market Makers can also be

least 50 [14] Less Active ETPs [15] in which it meets at least two Performance Metrics.[16] The Exchange is not proposing any change to the level of Tape B Tier 3 credits.[17]

The proposed rule change to adopt the proposed alternative method to qualify for the existing credit is designed to incentivize ETP Holders to increase liquidity-providing orders in NYSE Arca-listed securities, including in lower volume securities, in which they are registered as a LMM or Market Maker, that they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders for the benefit of all market participants.

The Exchange notes that its listing business operates in a highly competitive market in which market participants, including issuers of securities, LMMs, and other liquidity providers, can readily transfer their listings, or direct order flow to competing venues if they deem fee levels, liquidity provision incentive programs, or other factors at a particular venue to be insufficient or excessive. The proposed rule change reflects the current competitive pricing environment and is designed to incentivize market participants to participate as LMMs or Market Makers, especially in Less Active ETPs, and thereby, further enhance the market quality on such securities listed on the Exchange and encourage issuers to list new products on the Exchange.

Tape B—Additional Credit

The Exchange currently provides an increased cap applicable under the Tape B Tiers pricing table. Specifically, if an ETP Holder is registered as a LMM or Market Maker in at least 100 Less Active ETPs in which it meets at least two Performance Metrics, where the ETP Holder, together with any affiliates, has Adding Tape B ADV that is an increase of at least 60% over the ETP Holder's Adding ADV in Q3 2019, as a percentage of Tape B CADV, then such ETP Holder receives a combined credit of up to:

- $0.0033 per share if the ETP Holder, together with any affiliates, has Tape B Adding ADV equal to at least 0.65% of Tape B CADV, or
- $0.0034 per share if the ETP Holder, together with any affiliates, has Tape B Adding ADV equal to at least 0.70% of Tape B CADV.

The Exchange proposes to increase the combined credit, from $0.0034 per share to $0.0035 per share, if a qualifying ETP Holder that, together with any affiliates, has Tape B Adding ADV equal to at least 0.70% of Tape B CADV.

The Exchange believes increasing the combined credit payable to ETP Holders, from up to $0.0034 per share to up to $0.0035 per share would provide an incentive to ETP Holders to register as LMMs or Market Makers and incentivize such liquidity providers to increase the number of orders sent to the Exchange.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[18] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[19] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [20] As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market.

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including credits and fees that apply based upon members achieving certain volume thresholds. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, the Exchange's fees are reasonably constrained by competitive alternatives and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

Tape B Tier 3

The Exchange believes that the proposal to adopt an alternative method to qualify for the Tape B Tier 3 credit is reasonable because it provides an additional opportunity for ETP Holders to receive an existing rebate on qualifying orders in a manner that incentivizes order flow on the Exchange. The Exchange believes the proposed alternative method to qualify for the Tape B Tier 3 pricing tier is reasonable because it provides ETP Holders with an additional way to qualify for the pricing tier's credit by incentivizing ETP Holders to increase liquidity-providing orders in NYSE Arca-listed securities, including in lower volume securities, in which they are registered as a LMM or Market Maker, that they send to the Exchange, which would support the quality of price discovery on the Exchange and provide additional liquidity for incoming orders for the benefit of all market participants. The Exchange also believes it is reasonable to require ETP Holders to register as a LMM or Market Maker in a minimum number of Less Active ETPs and to meet at least two Performance Metrics in such securities as the Exchange believes this requirement would enhance market

registered in securities that trade on an unlisted trading privileges basis on the Exchange.

[14] The number of Less Active ETPs for a billing month would be calculated as the average number of Less Active ETPs in which an ETP Holder is registered as a LMM or Market Maker on the first and last business day of the previous month.

[15] Pursuant to Section I under the LMM Transaction Fees and Credits, the term ''Less Active ETPs'' means ETPs that have a CADV in the prior calendar quarter that is the greater of either less than 100,000 shares or less than 0.013% of Consolidated Tape B ADV. The term ''ETP'' means Exchange Traded Product listed on NYSE Arca.

[16] The applicable Performance Metrics are specified in Section III under LMM Transaction Fees and Credits on the Fee Schedule.

[17] With this proposed rule change, the Exchange also proposes to reformat the Tape B Tiers table by adopting a new column titled ''NYSE Arca Listed Equities'' with a description in the new column of the requirement as proposed in this filing.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4) and (5).

[20] *See* Regulation NMS, *supra* note 4, 70 FR at 37499.

quality in Less Active ETPs and support the quality of price discovery in such securities.

The Exchange believes the proposed change to adopt an alternative method to qualify for existing credits is reasonable as these changes would provide an incentive for ETP Holders to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the existing credit, thereby contributing to depth and market quality on the Exchange. As noted above, the Exchange operates in a highly competitive environment, particularly for attracting order flow that provides displayed liquidity on an exchange. More specifically, the Exchange notes that greater add volume order flow may provide for deeper, more liquid markets and execution opportunities at improved prices, which the Exchange believes would incentivize liquidity providers to submit additional liquidity and enhance execution opportunities.

The Exchange believes that the proposal to adopt an alternative method to qualify for the Tape B Tier 3 credit represents an equitable allocation of fees and credits and is not unfairly discriminatory because it would apply uniformly to all ETP Holders, in that all ETP Holders would be eligible for the existing credit and have the opportunity to meet the tier's criteria by registering as a LMM or Market Maker in a Less Active ETP and meeting the market quality metrics. The Exchange believes that the proposal to offer rebates tied to market quality metrics represents an equitable allocation of payments because LMMs and Market Makers would be required to not only meet their Rule 7.23–E obligations, but also meet prescribed quoting requirements in order to qualify for the credit. Further, all LMMs and Market Makers on the Exchange are eligible to participate and could do so by simply registering in a Less Active ETP and meeting the proposed market quality metrics.

Under the proposal, the existing rebate would apply automatically and uniformly to all ETP Holders that register as a LMM or Market Maker in at least 50 Less Active ETPs in which it meets at least two Performance Metrics.

While the Exchange has no way of knowing whether the proposed alternative method to qualify for the Tape B Tier 3 pricing tier would definitively result in any particular ETP Holder qualifying for the existing credit, the Exchange anticipates a number of ETP Holders will seek to qualify for the rebate by registering as a LMM or Market Maker in at least 50 Less Active ETPs and meet the required performance metrics.

The Exchange believes it is not unfairly discriminatory to provide an alternative way to qualify for the per share credit under the Tape B Tier 3 pricing tier, as the credit would be provided on an equal basis to all ETP Holders that meet the proposed requirement. Further, the Exchange believes the proposed alternative method would incentivize ETP Holders to register in Less Active ETPs and send more order to the Exchange to qualify for the Tape B Tier 3 credit.

The Exchange believes that the proposed alternative method to qualify for the Tape B Tier 3 credit is not unfairly discriminatory because it would be available to all ETP Holders on an equal and non-discriminatory basis. In this regard, the Exchange notes that ETP Holders that do not meet the proposed alternative criteria would continue to have the opportunity to qualify for the Tape B Tier 3 credit by satisfying the two current requirements, which would not change as a result of this proposal.

The Exchange also believes that the proposed rule change is not unfairly discriminatory because it is reasonably related to the value to the Exchange's market quality associated with higher volumes. The Exchange believes that increased liquidity and higher volumes improves market quality on the Exchange, which increases the likelihood of orders being executed at prices desired by ETP Holders and thereby incentivizing ETP Holders to direct more order flow to the Exchange. The Exchange places a higher value on displayed liquidity because the Exchange believes that displayed liquidity is a public good that benefits investors generally by providing greater price transparency and enhancing price discovery on a public exchange, which ultimately lead to substantial reductions in transaction costs.

The proposed change to the Tape B Tier 3 pricing tier is designed as an incentive to ETP Holders interested in meeting the tier criteria to submit additional order flow to the Exchange and each will receive the existing rebate if the tier criteria is met. The Exchange also notes that the proposed rule change will not adversely impact any ETP Holder's pricing or its ability to qualify for other tiers. Rather, should an ETP Holder not meet the Tape B Tier 3 pricing tier's criteria, the ETP Holder will merely not receive the corresponding rebate.

Tape B—Additional Credit

The Exchange believes the proposed rule change to increase the combined credit, from up to $0.0034 per share to up to $0.0035 per share, payable to ETP Holders if an ETP Holder, together with any affiliates, has Tape B Adding ADV equal to at least 0.70% of Tape B CADV is a reasonable means of attracting additional liquidity to the Exchange. The Exchange believes the increased financial incentive, which is among the highest paid by the Exchange, would encourage ETP Holders to submit additional liquidity to a national securities exchange and receive the proposed higher rebate. The Exchange believes it is reasonable to require ETP Holders to meet the applicable volume threshold to qualify for the increased credit, given the higher combined credit up to of $0.0035 per share that the Exchange would pay if the tier criteria were met.

The Exchange believes that submission of increased liquidity to the Exchange would promote price discovery and transparency and enhance order execution opportunities for ETP Holders from the substantial amounts of liquidity present on the Exchange. The Exchange also believes it is reasonable to require ETP Holders to register as a LMM or Market Maker in a minimum number of Less Active ETPs and to meet at least two Performance Metrics in such securities as the Exchange believes this requirement would enhance market quality in Less Active ETPs and support the quality of price discovery in such securities.

The Exchange believes the proposed rule change to increase the combined credit, from up to $0.0034 per share to up to $0.0035 per share, payable to ETP Holders if a ETP Holder, together with any affiliates, has Tape B Adding ADV equal to at least 0.70% of Tape B CADV equitably allocates its fees and credits among market participants because it is reasonably related to the value of the Exchange's market quality associated with higher equities volumes. The Exchange believes that increased liquidity and higher volumes improves market quality on the Exchange, which increases the likelihood of orders being executed at prices desired by ETP Holders and thereby incentivizing ETP Holders to direct more order flow to the Exchange. The Exchange places a higher value on displayed liquidity because the Exchange believes that displayed liquidity is a public good that benefits investors generally by providing greater price transparency and enhancing price discovery on a public exchange, which ultimately lead to substantial reductions

in transaction costs. As proposed, the Exchange would continue to provide qualifying ETP Holders with some of the highest credits payable by the Exchange provided they continue to participate as LMMs or Market Makers and continue to provide increased Tape B adding ADV. The more an ETP Holder participates, the greater the credit that ETP Holder would receive. The Exchange believes the proposed increase credit would encourage ETP Holders to continue to send orders that add liquidity to the Exchange, thereby contributing to robust levels of liquidity, which would benefit all market participants.

The Exchange believes it is not unfairly discriminatory to increase the combined credit payable to ETP Holders because the increased credits would be paid to all ETP Holders that qualify for the credit on an equal basis. Additionally, the proposed rule change to increase the combined credit payable to qualifying ETP Holders neither targets nor will it have a disparate impact on any particular category of market participant.

On the backdrop of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt by the Exchange to maintain, if not improve its market share relative to its competitors.

Finally, the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[21] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intramarket Competition. The Exchange believes the proposed amendment to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or its competitors. The proposed change is designed to attract additional order flow to the Exchange, in particular with respect to Tape B securities. The Exchange believes that the proposed adoption of an alternative method to qualify for an established credit under the Tape B Tier 3 pricing tier would incentivize market participants to participate as LMMs or Market Makers and direct liquidity adding order flow to the Exchange, bringing with it additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency would benefit all market participants on the Exchange by enhancing market quality and would continue to encourage ETP Holders to send orders to the Exchange, thereby contributing towards a robust and well-balanced market ecosystem.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange's market share of intraday trading (*i.e.,* excluding auctions) is currently less than 12%. In such an environment, the Exchange must continually review, and consider adjusting its fees and credits to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, the Exchange does not believe its proposed fee change can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[22] of the Act and paragraph (f) thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2024–67 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSEARCA–2024–67. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is

[21] 15 U.S.C. 78f(b)(8).

[22] 15 U.S.C. 78s(b)(3)(A).

obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2024–67, and should be submitted on or before September 19, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–19395 Filed 8–28–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Small Business Administration (SBA) intends to request approval from the Office of Management and Budget (OMB) for a new information collection described below. The PRA requires Federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before October 28, 2024.

ADDRESSES: Send all comments to Donna Fudge, *donna.fudge@sba.gov,* (202) 205–6363, Office of Policy Planning and Liaison, Small Business Administration.

FOR FURTHER INFORMATION CONTACT: Donna Fudge, *donna.fudge@sba.gov,* (202) 205–6363, Office of Policy Planning and Liaison, Small Business Administration or Alethea Ten Eyck-Sanders, Agency Clearance Officer *alethea.teneyck-sanders@sba.gov*, 202–996–4329.

SUPPLEMENTARY INFORMATION: SBA requires this information from small business concerns to determine an applicants' eligibility for recertification in the 8(a) Business Development, Veteran-Owned and Service-Disabled Veteran-Owned Small Business (VOSB/SDVOSB), Historically Underutilized Business Zone (HUBZone), and Women-Owned Small Business (WOSB) programs.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collection

PRA Number: To Be Determined.

Title: Business Development and Unified Certification Renewal.

Description of Respondents: The SBA is required by statute to administer the 8(a), HUBZone, WOSB, and VOSB/SDVOSB programs. To do this, SBA must recertify applicants eligibility to ensure continuing compliance with program eligibility requirements. The Business Development and Unified Certification Renewal information collection is used in execution of these requirements.

Form Number: SBA Form 2539.

Total Estimated Annual Responses: 14,400.

Total Estimated Annual Hour Burden: 7,767.

Alethea Ten Eyck-Sanders,

Agency Clearance Officer.

[FR Doc. 2024–19446 Filed 8–28–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20578 and #20579; MONTANA Disaster Number MT–20011]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Montana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Montana (FEMA–4813–DR), dated 08/23/2024.

Incident: Straight-line Winds.

Incident Period: 07/24/2024.

DATES: Issued on 08/23/2024.

Physical Loan Application Deadline Date: 10/22/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 05/23/2025.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Vanessa Morgan, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/23/2024, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications online using the MySBA Loan Portal *https://lending.sba.gov* or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955 for further assistance.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Missoula, Powell.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.250
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	3.250

The number assigned to this disaster for physical damage is 20578B and for economic injury is 205790.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–19452 Filed 8–28–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

SBA Invention, Innovation, and Entrepreneurship Advisory Committee Meeting

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Federal advisory committee meeting: SBA Invention, Innovation, and Entrepreneurship Advisory Committee.

SUMMARY: The U.S. Small Business Administration (SBA) will hold a meeting of the SBA Invention, Innovation, and Entrepreneurship Advisory Committee on Tuesday, September 17, 2024. Members will convene as an independent source of advice and recommendations to SBA on matters supporting U.S. innovation, addressing commercialization hurdles and other vulnerabilities in the

[23] 17 CFR 200.30–3(a)(12).

domestic investment and innovation ecosystem, and facilitating entrepreneurial access-to and participation-in federal innovation support and funding programs. The meeting will be streamed live to the public.

DATES: Tuesday, September 17, 2024, from 10:30 a.m. to 4:30 p.m. eastern time (ET).

ADDRESSES: The Invention, Innovation, and Entrepreneurship Advisory Committee will meet, and the meeting will be live streamed for the public. Register at *https://bit.ly/IIEAC-Sep17*.

FOR FURTHER INFORMATION CONTACT: Brittany Sickler, Designated Federal Officer, Office of Investment and Innovation, SBA, 409 3rd Street SW, Washington, DC 20416, (202) 369–8862 or *IIEAC@sba.gov*. The meeting will be live streamed to the public, and anyone wishing to submit questions to the SBA Invention, Innovation, and Entrepreneurship Advisory Committee can do so by submitting them via email to *IIEAC@sba.gov*. Individuals who require an alternative aid or service to communicate effectively with SBA should email the point of contact listed above and provide a brief description of their preferred method of communication.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. appendix 2), SBA announces the meeting of the SBA Invention, Innovation, and Entrepreneurship Advisory Committee (the ''IIEAC''). The IIEAC is tasked with providing advice, insights, and recommendations to SBA on matters broadly related to the U.S. startup and small business innovation ecosystem, and more specifically supporting innovation across the U.S.; developing and/or evolving SBA programs and services to address commercialization hurdles; addressing vulnerabilities and gaps in funding domestic invention and innovation; facilitating and enabling broad access and participation in federal innovation support and funding programs. The final agenda for the meeting will be posted on the IIEAC website at *https://www.sba.gov/about-sba/organization/sba-initiatives/invention-innovation-entrepreneurship-advisory-committee* prior to the meeting. Copies of the meeting minutes will be available by request within 90 days of the meeting date.

Public Comment

Any member of the public may submit pertinent questions and comments concerning IIEAC affairs at any time before or after the meeting and participate in the livestreamed meeting of the SBA Invention, Innovation, and Entrepreneurship Advisory Committee on September 17. Comments may be submitted to Brittany Sickler at *IIEAC@sba.gov*. Those wishing to participate live are encouraged to register by or before September 10, 2024, using the registration link provided above. Advance registration is strongly encouraged.

Dated: August 23, 2024.

Andrienne Johnson,

Committee Management Officer.

[FR Doc. 2024–19408 Filed 8–28–24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0113]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: NAYA MARYN (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 30, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0113 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2024–0113 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0113, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel NAYA MARYN is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters.

Geographic Region Including Base of Operations: Florida, New York, Rhode Island. Base of Operations: Fort Lauderdale, Florida.

Vessel Length and Type: 94′ Motor yacht.

The complete application is available for review identified in the DOT docket as MARAD 2024–0113 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2024–0113 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–19465 Filed 8–28–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0117]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SANDYSEA (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 30, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0117 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2024–0117 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0117, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SANDY SEA is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters.

Geographic Region Including Base of Operations: Florida, Illinois. Base of Operations: Aventura, Florida.

Vessel Length and Type: 57′ Motor Yacht.

The complete application is available for review identified in the DOT docket as MARAD 2024–0117 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English.

We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2024–0117 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–19460 Filed 8–28–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0114]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: GUNGHO (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 30, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0114 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2024–0114 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0114, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel GUNGHO is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters.

Geographic Region Including Base of Operations: Hawaii. Base of Operations: Lahaina, Hawaii.

Vessel Length and Type: 27′ Sailboat.

The complete application is available for review identified in the DOT docket as MARAD 2024–0114 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2024–0114 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that

you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–19461 Filed 8–28–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0115]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SECOND WIND (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 30, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0115 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2024–0115 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0115, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SECOND WIND is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters.

Geographic Region Including Base of Operations: Florida. Base of Operations: Treasure Island, Florida.

Vessel Length and Type: 40′ Catamaran.

The complete application is available for review identified in the DOT docket as MARAD 2024–0115 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2024–0115 or visit the Docket Management Facility (*see* **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–19467 Filed 8–28–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0116]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SLAMMIN SALMON III (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 30, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0116 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2024–0116 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0116, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SLAMMIN SALMON III is:

Intended Commercial Use of Vessel: Requester intends to offer passenger sightseeing, snorkeling and spearfishing trips.

Geographic Region Including Base of Operations: Hawaii. Base of Operations: Oahu, Hawaii.

Vessel Length and Type: 22′ Rigid Hull Inflatable Boat.

The complete application is available for review identified in the DOT docket as MARAD 2024–0116 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2024–0116 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains

CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–19466 Filed 8–28–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Decommissioning and Disposition of the National Historic Landmark Nuclear Ship Savannah; Notice of Public Meeting

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD) announces a public meeting of the Peer Review Group (PRG). The PRG was established pursuant to the requirements of the National Historic Preservation Act (NHPA) and its implementing regulations to plan for the decommissioning and disposition of the Nuclear Ship Savannah (NSS). PRG membership is comprised of officials from the U.S. Department of Transportation, MARAD, the U.S. Nuclear Regulatory Commission (NRC), the Advisory Council on Historic Preservation (ACHP), and the Maryland State Historic Preservation Officer (SHPO) and other consulting parties. The public meeting affords the public an opportunity to participate in PRG activities, including reviewing and providing comments on draft deliverables. MARAD encourages public participation and provides the PRG meeting information below.

DATES: The meeting will be held on Tuesday, September 17, 2024, from 2:30 p.m. to 4 p.m. eastern daylight time (EDT). Requests to attend the meeting must be received by 5 p.m. EDT one week before the meeting, Tuesday, September 10, 2024, to facilitate entry or to receive instructions to participate online. Requests for accommodations for a disability must also be received one week before the meeting, Tuesday, September 10, 2024.

ADDRESSES: The meeting will be held onboard the NSS, online, or by phone. The NSS is located at Pier 13 Canton Marine Terminal, 4601 Newgate Avenue, Baltimore, MD 21124.

FOR FURTHER INFORMATION CONTACT: Erhard W. Koehler, (202) 680–2066 or via email at *marad.history@dot.gov.* You may send mail to N.S. Savannah/Savannah Technical Staff, Pier 13 Canton Marine Terminal, 4601 Newgate Avenue, Baltimore, MD 21224, ATTN: Erhard Koehler.

SUPPLEMENTARY INFORMATION:

I. Background

The decommissioning and disposition of the NSS is an Undertaking under Section 106 of the NHPA. Section 106 requires that federal agencies consider views of the public regarding their Undertakings; therefore, in 2020, MARAD established a Federal docket at *https://www.regulations.gov/docket/MARAD-2020-0133* to provide public notice about the NSS Undertaking. The federal docket was also used in 2021 to solicit public comments on the future uses of the NSS. MARAD is continuing to use this same docket to take in public comment, share information, and post agency actions.

The NHPA Programmatic Agreement (PA) for the Decommissioning and Disposition of the NSS is available on the MARAD docket located at *www.regulations.gov* under docket id ''MARAD–2020–0133.'' The PA stipulates a deliberative process by which MARAD will consider the disposition of the NSS. This process requires MARAD to make an affirmative, good-faith effort to preserve the NSS. The PA also establishes the PRG in Stipulation II. The PRG is the mechanism for continuing consultation during the effective period of the PA and its members consist of the signatories and concurring parties to the PA, as well as other consulting parties. The PRG members will provide individual input and guidance to MARAD regarding the implementation of stipulations in the PA. PRG members and members of the public are invited to provide input by attending bi-monthly meetings and reviewing and commenting on deliverables developed as part of the PA.

II. Agenda

The agenda will include (1) welcome and introductions; (2) program update; (3) status of PA stipulations; (4) other business; and (5) date of next meeting. The agenda topic titled PA will focus on a discussion about architectural salvage as a mitigation measure. The agenda will also be posted on MARAD's website at *https://www.maritime.dot.gov/outreach/history/maritime-administration-history-program* and on the MARAD docket located at *www.regulations.gov* under docket id ''MARAD–2020–0133.''

III. Public Participation

The meeting will be open to the public. Members of the public who wish to attend in person or online must RSVP to the person listed in the **FOR FURTHER INFORMATION CONTACT** section with your name and affiliation. Members of the public may also call-in using the following number: 312–600–3163 and conference ID: 930 866 814#.

Special services. The NSS is not compliant with the Americans with Disabilities Act (ADA). The ship has some capability to accommodate persons with impaired mobility. If you require accommodations to attend PRG meetings in-person, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The U.S. Department of Transportation is committed to providing all participants equal access to this meeting. If you need alternative formats or services such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

(Authority: 49 CFR 1.81 and 1.93; 36 CFR part 800; 5 U.S.C. 552b.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–19411 Filed 8–28–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in New York, NY. The entire meeting will be closed.

DATES: The meeting will begin at 10:30 a.m. eastern time. The meeting will be held September 17, 2024.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held at 290 Broadway–Foley Square, New York, NY 10007.

FOR FURTHER INFORMATION CONTACT: Krista M. Floyd, 2203 N. Lois Avenue, Tampa, FL 33607. Telephone (813) 367–8444 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. 1009, that a closed meeting of the Art Advisory Panel will be held at 290 Broadway–Foley Square, New York, NY 10007.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in sections 552b(c)(3), (4), (6), and (7), of the Government in the Sunshine Act, and that the meeting will not be open to the public.

Elizabeth P. Askey,

Acting Chief, Independent Office of Appeals.

[FR Doc. 2024–19430 Filed 8–28–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for U.S. Employment Tax Returns and Related Forms; CT–1, CT–1X, CT–2, SS–8, SS–8 (PR), W–2, W–2 AS, W–2 C, W–2 GU, W–2 VI, W–3, W–3 (PR), W–3 C, W–3 C (PR), W–3 SS, 940, 940 (PR), 940 SCH A, 940 SCH A (PR), 940 SCH R, 941, 941 (PR), 941 SCH B, 941 SCH B (PR), 941 SCH D, 941 SCH R, 941 SS, 941 X, 941 X (PR), 943, 943 (PR), 943 A, 943 A (PR), 943 SCH R, 943 X, 943 X (PR), 944, 944 X, 945, 945 A, 945 X, 2032, 2678, 8027, 8027 T, 8453 EMP, 8850, 8879 EMP, 8922, 8952, and 8974

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (PRA). The IRS is soliciting comments on U.S. Employment Tax Returns and related Forms.

DATES: Written comments should be received on or before October 28, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email *pra.comments@irs.gov.* Include 1545–0029 or U.S. Employment Tax Returns and Related Forms.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Kerry Dennis, at (202) 317–5751, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Tax Compliance Burden

Tax compliance burden is defined as the time and money taxpayers spend to comply with their tax filing responsibilities. Time-related activities include recordkeeping, tax planning, gathering tax materials, learning about the law and what you need to do, and completing and submitting the return. Out-of-pocket costs include expenses such as purchasing tax software, paying a third-party preparer, and printing and postage. Tax compliance burden does not include a taxpayer's tax liability, economic inefficiencies caused by sub-optimal choices related to tax deductions or credits, or psychological costs.

Proposed PRA Submission to OMB

Title: U.S. Employment Tax Returns and related Forms.

OMB Number: 1545–0029.

Form Numbers: CT–1, CT–1X, CT–2, SS–8, SS–8 (PR), W–2, W–2 AS, W–2 C, W–2 GU, W–2 VI, W–3, W–3 (PR), W–3 C, W–3 C (PR), W–3 SS, 940, 940 (PR), 940 SCH A, 940 SCH A (PR), 940 SCH R, 941, 941 (PR), 941 SCH B, 941 SCH B (PR), 941 SCH D, 941 SCH R, 941 SS, 941 X, 941 X (PR), 943, 943 (PR), 943 A, 943 A (PR), 943 SCH R, 943 X, 943 X (PR), 944, 944 X, 945, 945 A, 945 X, 2032, 2678, 8027, 8027 T, 8453 EMP, 8850, 8879 EMP, 8922, 8952, and 8974.

Abstract: These forms are used by employers to report their employment tax-related activity. The data is used to verify that the items reported on the forms are correct.

Current Actions: There have been changes in regulatory guidance related to various forms approved under this approval package during the past year. There have been additions and removals of forms included in this approval package. It is anticipated that these changes will have an impact on the overall burden and cost estimates requested for this approval package, however these estimates were not finalized at the time of release of this notice. These estimated figures are expected to be available by the release of the 30-day comment notice from OMB. This approval package is being submitted for renewal purposes.

Type of Review: Revision of currently approved collection.

Affected Public: Employers.

Preliminary Estimated Number of Respondents: 7,271,800.

Preliminary Estimated Time per Respondent (Hours): 63 hours, 48 minutes.

Preliminary Estimated Total Annual Time (Hours): 464,000,000.

Preliminary Estimated Total Annual Monetized Time ($): 14,850,000,000.

Preliminary Estimated Total Out-of-Pocket Costs ($): 19,210,000,000.

Preliminary Estimated Total Monetized Burden ($): 34,060,000,000.

Note: Total Monetized Burden = Total Out-of-Pocket Costs + Total Annual Monetized Time.

Note: Amounts below are estimates for fiscal year (FY) 2025. Reported time and cost burdens are national averages and do not

necessarily reflect a ''typical case.'' Most taxpayers experience lower than average burden, with taxpayer burden varying considerably by taxpayer type. Detail may not add due to rounding.

ICB ESTIMATES FOR EMPLOYMENT TAX FORMS, SCHEDULES, AND REGULATIONS

[FY2025]

	FY23	Program change due to adjustment	FY25
Number of Respondents	7,128,000	143,800	7,271,800
Burden in Hours	456,000,000	8,000,000	464,000,000
Monetized Time Burden	$14,630,000,000	$220,000,000	$14,850,000,000
Out-of-Pocket Costs	$18,910,000,000	$300,000,000	$19,210,000,000
Total Monetized Burden	$33,540,000,000	$520,000,000	$34,060,000,000

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 23, 2024.

Kerry Dennis,

Tax Analyst.

Appendix A

Form	Title/description	OMB No.
CT–1	Employer's Annual Railroad Retirement Tax Return	1545–0001
CT–1X	Adjusted Employer's Annual Railroad Retirement Tax Return or Claim for Refund	1545–0001
CT–2	Employee Representative's Quarterly Railroad Tax Return	1545–0002
SS–8	Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding	1545–0004
SS–8 (PR)	Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax (Puerto Rican Version).	1545–0004
W–2	Wage and Tax Statement	1545–0008
W–2 AS	American Samoa Wage and Tax Statement	1545–0008
W–2 C	Corrected Wage and Tax Statement	1545–0008
W–2 GU	Guam Wage and Tax Statement	1545–0008
W–2 VI	U.S. Virgin Islands Wage and Tax Statement	1545–0008
W–3	Transmittal of Wage and Tax Statements	1545–0008
W–3 (PR)	Transmittal of Withholding Statements (Puerto Rican Version)	1545–0008
W–3 C	Transmittal of Corrected Wage and Tax Statements	1545–0008
W–3 C (PR)	Transmittal of Corrected Wage and Tax Statements (Puerto Rican Version)	1545–0008
W–3 SS	Transmittal of Wage and Tax Statements	1545–0008
940	Employer's Annual Federal Unemployment (FUTA) Tax Return	1545–0028
940 (PR)	Employer's Annual Federal Unemployment (FUTA) Tax Return (Puerto Rican Version)	1545–0028
940 SCH A	Multi-State Employer and Credit Reduction Information	1545–0028
940 SCH A (PR)	Multi-State Employer and Credit Reduction Information (Puerto Rican Version)	1545–0028
940 SCH R	Allocation Schedule for Aggregate Form 940 Filers	1545–0028
941	Employer's Quarterly Federal Tax Return	*1545–0029
941 (PR)	Employer's Quarterly Federal Tax Return	*1545–0029
941 SCH B	Report of Tax Liability for Semiweekly Schedule Depositors	*1545–0029
941 SCH B (PR)	Supplemental Record of Federal Tax Liability (Puerto Rican Version)	*1545–0029
941 SCH D	Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations	*1545–0029
941 SCH R	Reconciliation for Aggregate Form 941 Filers	*1545–0029
941 SS	Employer's QUARTERLY Federal Tax Return (American Samoa, Guam, the Commonwealth of Northern Mariana Islands, and the U.S. Virgin Islands).	*1545–0029
941 X	Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund	*1545–0029
941 X (PR)	Adjusted Employer's QUARTERLY Federal Tax Return or Claim for Refund (Puerto Rico Version)	*1545–0029
943	Employer's Annual Tax Return for Agricultural Employees	1545–0035
943 (PR)	Employer's Annual Tax Return for Agricultural Employees (Puerto Rican Version)	1545–0035
943 A	Agricultural Employer's Record of Federal Tax Liability	1545–0035
943 A (PR)	Agricultural Employer's Record of Federal Tax Liability (Puerto Rican Version)	1545–0035
943 R	Allocation Schedule for Aggregate Form 943 Filers	1545–0035
943 X	Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund	1545–0035
943 X (PR)	Adjusted Employer's Annual Federal Tax Return for Agricultural Employees or Claim for Refund	1545–0035
944	Employer's ANNUAL Federal Tax Return	1545–2007
944 X	Adjusted Employer's ANNUAL Federal Tax Return or Claim for Refund	1545–2007
945	Annual Return of Withheld Federal Income Tax	1545–1430
945 A	Annual Record of Federal Tax Liability	1545–1430
945 X	Adjusted ANNUAL Return of Withheld Federal Income Tax or Claim for Refund	1545–1430
2032	Contract Coverage Under Title II of the Social Security Act	1545–0137

Form	Title/description	OMB No.
2678	Employer/Payer Appointment of Agent	1545–0748
8027	Employer's Annual Information Return of Tip Income and Allocated Tips	1545–0714
8027 T	Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips	1545–0714
8453 EMP	Employment Tax Declaration for an IRS e-file Return	1545–0967
8850	Pre-Screening Notice and Certification Request for the Work Opportunity Credit	1545–1500
8879 EMP	IRS e-file Signature Authorization for Forms 940, 940–PR, 941, 941–PR, 941–SS, 943, 943–PR, 944, and 945.	1545–0967
8922	Third-Party Sick Pay Recap	*1545–0123
8952	Application for Voluntary Classification Settlement Program (VCSP)	1545–2215
8974	Qualified Small Business Payroll Tax Credit for Increasing Research Activities	1545–0029

*1545–0123 will not be discontinued. It is the Business collection and 8922 will be included in both the Business collection and the Employment Tax collection.

*1545–0029 will not be discontinued it will be the number assigned to all Forms within the employment tax collection.

Appendix B

Guidance title/description	OMB No.
26 CFR 31.6001–1 Records in general; 26 CFR 31.6001–2 Additional Records under FICA; 26 CFR 31.6001–3, Additional records under Railroad Retirement Tax Act; 26 CFR 31.6001–5 Additional records	1545–0798
Tip Reporting Alternative Commitment (TRAC) Agreement for Use in the Cosmetology and Barber Industry to Employment Tax	1545–1529
Reg–111583–07 (TD 9405) (Final)—Employment Tax Adjustments; REG–130074–11—Rules Relating to Additional Medicare Tax	1545–2097

[FR Doc. 2024–19400 Filed 8–28–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0179]

Agency Information Collection Activity Under OMB Review: Application for Change of Permanent Plan—Medical

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice by clicking on the following link *http://www.reginfo.gov/public/do/PRAMain,* select ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0179.''

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, (202) 461–8900, *vacopaperworkreduact@va.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Change of Permanent Plan—Medical VA Form 29–1549.

OMB Control Number: 2900–0179 *https://www.reginfo.gov/public/do/PRASearch.*

Type of Review: Extension of a currently approved collection.

Abstract: These forms are used by veterans to apply to change his/her plan of insurance from a higher reserve to a lower reserve. The information on the form is required by law, 38 CFR 6.48 and 8.36.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 89 FR 54163 on June 28, 2024.

Affected Public: Individuals or Households.

Estimated Annual Burden: 14 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 28.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–19399 Filed 8–28–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the Advisory Committee on Disability Compensation (hereinafter the Committee) will hold virtual meeting sessions on Thursday, September 26, 2024, and Friday, September 27, 2024. The meeting session will begin, and end as follows:

Date	Time
Thursday, September 26, 2024.	9:00 a.m. to 2:00 p.m. Eastern Daylight Time (EDT).
Friday, September 27, 2024.	9:00 a.m. to 2:00 p.m. EDT.

The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities (VASRD). The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the VASRD, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation in the future.

On Thursday, September 26, 2024, through Friday, September 27, 2024, the agenda will include updates from

various staffs on ongoing VA initiatives and priorities, subcommittee out briefs, and voting of topics to include in the 2024 Biennial Report.

In addition, on Thursday, September 26, 2024, the public comment period will be open for 30-minutes from 9:15 a.m. to 9:45 a.m. EST. The public can also submit one-page summaries of their written statements for the Committee's review. Public comments may be received no later than Wednesday, September 18, 2024, for inclusion in the official meeting record. Please send these comments to Jadine Piper of the Veterans Benefits Administration, Compensation Service, at *21C_ ACDC.VBACO@va.gov.*

Members of the public who wish to obtain a copy of the agenda should contact Jadine Piper at *21C_ ACDC.VBACO@va.gov.* The call-in number (United States, Chicago) for those who would like to attend the meeting is: 872–701–0185; phone conference ID: 402 057 12 #. Members of the public may also access the meeting by pasting the following URL into a web browser: *bit.ly/ ACDCSeptember2024.*

Dated: August 26, 2024.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–19459 Filed 8–28–24; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of the Treasury

Financial Crimes Enforcement Network

31 CFR Chapter X

Anti-Money Laundering Regulations for Residential Real Estate Transfers; Final Rule

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Chapter X

RIN 1506–AB54

Anti-Money Laundering Regulations for Residential Real Estate Transfers

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Final rule.

SUMMARY: FinCEN is issuing a final rule to require certain persons involved in real estate closings and settlements to submit reports and keep records on certain non-financed transfers of residential real property to specified legal entities and trusts on a nationwide basis. Transfers made directly to an individual are not covered by this rule. This rule describes the circumstances in which a report must be filed, who must file a report, what information must be provided, and when a report is due. These reports are expected to assist the U.S. Department of the Treasury, law enforcement, and national security agencies in addressing illicit finance vulnerabilities in the U.S. residential real estate sector, and to curtail the ability of illicit actors to anonymously launder illicit proceeds through transfers of residential real property, which threatens U.S. economic and national security.

DATES: Effective December 1, 2025.

ADDRESSES: The FinCEN Regulatory Support Section at 1–800–767–2825 or electronically at *frc@fincen.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Among the persons required by the Bank Secrecy Act (BSA) to maintain anti-money laundering and countering the financing of terrorism (AML/CFT) [1] programs are ''persons involved in real estate closings and settlements.'' [2] For many years, FinCEN has exempted such persons from comprehensive regulation under the BSA. However, information received in response to FinCEN's geographic targeting orders relating to non-financed transfers of residential real estate (Residential Real Estate GTOs) has demonstrated the need for increased transparency and further regulation of this sector. Furthermore, the U.S. Department of the Treasury (Treasury) has long recognized the illicit finance risks posed by criminals and corrupt officials who abuse opaque legal entities and trusts to launder ill-gotten gains through transfers of residential real estate. This illicit use of the residential real estate market threatens U.S. economic and national security and can disadvantage individuals and small businesses that seek to compete fairly in the U.S. economy.

Earlier this year, pursuant to the BSA's authority to impose AML regulations on persons involved in real estate closings and settlements, FinCEN proposed a new reporting requirement. Under the proposed rule, certain persons involved in real estate closings and settlements would be required to report on certain transfers that Treasury deems high risk for illicit financial activity—namely, non-financed transfers of residential real property to legal entities and trusts.

FinCEN is now issuing a final rule that adopts the proposed rule with some modifications. The final rule imposes a streamlined suspicious activity report (SAR) filing requirement under which reporting persons, as defined, are required to file a ''Real Estate Report'' on certain non-financed transfers of residential real property to legal entities and trusts. Transfers to individuals, as well as certain transfers commonly used in estate planning, do not have to be reported. The reporting person for any transfer is one of a small number of persons who play specified roles in the real estate closing and settlement, with the specific individual determined through a cascading approach, unless superseded by an agreement among persons in the reporting cascade. The reporting person is required to identify herself, the legal entity or trust to which the residential real property is transferred, the beneficial owner(s) of that transferee entity or transferee trust, the person(s) transferring the residential real property, and the property being transferred, along with certain transactional information about the transfer.

The final rule adopts a reasonable reliance standard, allowing reporting persons to rely on information obtained from other persons, absent knowledge of facts that would reasonably call into question the reliability of that information. For purposes of reporting beneficial ownership information in particular, a reporting person may reasonably rely on information obtained from a transferee or the transferee's representative if the accuracy of the information is certified in writing to the best of the information provider's own knowledge.

FinCEN has sought to minimize burdens on reporting persons to the extent practicable without diminishing the utility of the Real Estate Report to law enforcement and believes the final rule appropriately balances the collection of information that is highly useful to Treasury, law enforcement, and national security agencies against the burdens associated with collecting that information, particularly on small businesses.

II. Background

A. Addressing High-Risk Transfers of Residential Real Estate

1. Authority To Require Reports From Persons Involved in Real Estate Closings and Settlements

The BSA is intended to combat money laundering, the financing of terrorism, and other illicit financial activity.[3] The purposes of the BSA include requiring financial institutions to keep records and file reports that ''are highly useful in criminal, tax, or regulatory investigations or proceedings'' or in the conduct of ''intelligence or counterintelligence activities, including analysis, to protect against international terrorism.'' [4] The Secretary of the Treasury (Secretary) has delegated the authority to implement, administer, and enforce compliance with the BSA and its implementing regulations to the Director of FinCEN.[5]

The BSA requires ''financial institutions'' to establish an AML/CFT program, which must include, at a minimum, ''(A) the development of internal policies, procedures, and controls; (B) the designation of a compliance officer; (C) an ongoing employee training program; and (D) an independent audit function to test programs.'' [6] The BSA also authorizes the Secretary to require financial institutions to report any suspicious transaction relevant to a possible violation of law or regulation.[7] Among the financial institutions subject to these

[1] Section 6101 of the AML Act, codified at 31 U.S.C. 5318(h), amended the BSA's requirement that financial institutions implement AML programs to also combat terrorist financing. This rule refers to ''AML/CFT program'' in reference to the current obligation contained in the BSA.

[2] 31 U.S.C. 5312(a)(2)(U).

[3] *See* 31 U.S.C. 5311. Section 6003(1) of the Anti-Money Laundering Act of 2020 defines the BSA as section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), Chapter 2 of Title I of Public Law 91–508 (12 U.S.C. 1951 *et seq.*), and 31 U.S.C. chapter 53, subchapter II. AML Act, Public Law 116–283, Division F, section 6003(1) (Jan. 1, 2021). Under this definition, the BSA is codified at 12 U.S.C. 1829b and 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336, including notes thereto. Its implementing regulations are found at 31 CFR Chapter X.

[4] 31 U.S.C. 5311(1).

[5] Treasury Order 180–01, Paragraph 3(a) (Jan. 14, 2020), *available at https://home.treasury.gov/about/general-information/orders-and-directives/treasury-order-180-01.*

[6] 31 U.S.C. 5318(h)(1)(A)–(D).

[7] 31 U.S.C. 5318(g).

requirements are ''persons involved in real estate closings and settlements.'' [8]

In particular, section 5318(g) of the BSA authorizes the Secretary to require financial institutions to report, via SARs, any ''suspicious transactions relevant to a possible violation of law or regulation.'' [9] However, the BSA affords the Secretary flexibility in implementing that requirement, and indeed directs the Secretary to consider ''the means by or form in which the Secretary shall receive such reporting,'' including the relevant ''burdens imposed by such means or form of reporting,'' ''the efficiency of the means or form,'' and the ''benefits derived by the means or form of reporting.'' [10] A provision added to the BSA by section 6202 of the Anti-Money Laundering Act of 2020 (AML Act) further directs FinCEN to ''establish streamlined . . . processes to, as appropriate, permit the filing of noncomplex categories of reports of suspicious activity.'' In assessing whether streamlined filing is appropriate, FinCEN must determine, among other things, that such reports would ''reduce burdens imposed on persons required to report[,]'' while at the same time ''not diminish[ing] the usefulness of the reporting to Federal law enforcement agencies, national security officials, and the intelligence community in combating financial crime, including the financing of terrorism[.]'' [11]

2. Reporting High-Risk Transfers of Residential Real Estate

Most transfers of residential real estate are associated with a mortgage loan or other financing provided by financial institutions subject to AML/CFT program requirements. As non-financed transfers do not involve such financial institutions, such transfers can be and have been exploited by illicit actors of all varieties, including those that pose domestic threats, such as persons engaged in fraud or organized crime, and foreign threats, such as international drug cartels, human traffickers, and corrupt political or business figures. Non-financed transfers to legal entities and trusts heighten the risk that such transfers will be used for illicit purposes. Numerous public law enforcement actions illustrate this point.[12] As such, FinCEN believes that the reporting of non-financed transfers to legal entities and trusts will benefit national security by facilitating law enforcement investigations into, and strategic analysis of, the use of residential real estate transfers having these particular characteristics to facilitate money laundering.[13]

Indeed, since 2016, FinCEN has used a targeted reporting requirement—the Residential Real Estate GTOs—to collect information on a subset of transfers of residential real estate that FinCEN considers to present a high risk for money laundering.[14] Specifically, the Residential Real Estate GTOs have required certain title insurance companies to file reports and maintain records concerning non-financed

[8] 31 U.S.C. 5312(a)(2)(U).

[9] 31 U.S.C. 5318(g)(1)(A).

[10] 31 U.S.C. 5318(g)(5)(B)(i)–(iii).

[11] *See* AML Act, section 6202 (*codified at* 31 U.S.C. 5318(g)(D)(i)(1)). Section 6102(c) of the AML Act also amended 31 U.S.C. 5318(a)(2) to give the Secretary the authority to ''require a class of domestic financial institutions or nonfinancial trades or businesses to maintain appropriate procedures, including the collection and reporting of certain information as the Secretary of the Treasury may prescribe by regulation, to . . . guard against money laundering, the financing of terrorism, or other forms of illicit finance.'' FinCEN believes this authority also provides an additional basis for the reporting requirement adopted in this final rule.

[12] As the Financial Action Task Force (FATF) noted in July 2022, ''[d]isparities with rules surrounding legal structures across countries means property can often be acquired abroad by shell companies or trusts based in secrecy jurisdictions, exacerbating the risk of money laundering.'' International bodies, such as the FATF have found that ''[s]uccessful AML/CFT supervision of the real estate sector must contend with the obfuscation of true ownership provided by legal entities or arrangements[.]'' FATF, ''Guidance for a Risk Based Approach: Real Estate Sector'' (July 2022), p. 17, *available at https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/RBA-Real-Estate-Sector.pdf.coredownload.pdf; see, e.g., U.S.* v. *Delgado,* 653 F.3d 729 (8th Cir. 2011) (drug trafficking, money laundering); *U.S.* v. *Fernandez,* 559 F.3d 303 (5th Cir. 2009) (drug trafficking, money laundering); Complaint for Forfeiture, *U.S.* v. *All the Lot or Parcel of Land Located at 19 Duck Pond Lane Southampton, New York* 11968, Case No. 1:23–cv–01545 (S.D.N.Y. Feb. 24, 2023) (sanctions evasion); Indictment and Forfeiture, *U.S.* v. *Maikel Jose Moreno Perez,* Case No. 1:23–cr–20035–RNS (S.D. Fla. Jan. 26, 2023) (bribery, money laundering, conspiracy); Motion for Preliminary Order of Forfeiture and Preliminary Order of Forfeiture, *U.S.* v. *Colon,* Case No. 1:17–cr–47–SB (D. Del. Nov. 18, 2022) (drug trafficking, money laundering); *U.S.* v. *Andrii Derkach,* 1:2022–cr–00432 (E.D.N.Y. Sept. 26, 2022) (sanctions evasion, money laundering, bank fraud); Doc. No. 10 at p. 1, *U.S.* vs. *Ralph Steinmann and Luis Fernando Vuiz,* 1:2022–cr–20306 (S.D. Fla. July 12, 2022) (bribery, money laundering); *U.S.* v. *Jimenez,* Case No. 1:18–cr–00879, 2022 U.S. Dist. LEXIS 77685, 2022 WL 1261738 (S.D.N.Y. Apr. 28, 2022) (false claim fraud, wire fraud, money laundering, identity theft); Complaint for Forfeiture, *U.S.* v. *Real Property Located in Potomac, Maryland, Commonly Known as 9908 Bentcross Drive, Potomac, MD 20854,* 8:2020–cv–02071 (D. Md. July 15, 2020) (public corruption, money laundering); Final Order of Forfeiture, *U.S.* v. *Raul Torres,* Case No. 1:19–cr–390 (N.D. Ohio Mar. 30, 2020) (operating an animal fighting venture, operating an unlicensed money services business, money laundering); *U.S.* v. *Bradley,* Case No. 3:15–cr–00037–2, 2019 U.S. Dist. LEXIS 141157, 2019 WL 3934684 (M.D. Tenn. Aug. 20, 2019) (drug trafficking, money laundering); Indictment, *U.S.* v. *Patrick Ifediba, et al.,* Case No. 2:18–cr–00103–RDP–JEO, Doc. 1 (N.D. Ala. Mar. 29, 2018) (health care fraud); Redacted Indictment, *U.S.* v. *Paul Manafort,* Case 1:18–cr–00083–TSE (E.D. Va. Feb. 26, 2018) (money laundering, acting as an unregistered foreign agent); *U.S.* v. *Miller,* 295 F. Supp. 3d 690 (E.D. Va. 2018) (wire fraud); *U.S.* v. *Coffman,* 859 F. Supp. 2d 871 (E.D. Ky. 2012) (mail, wire, and securities fraud); *U.S.* v. *10.10 Acres Located on Squires Rd.,* 386 F. Supp. 2d 613 (M.D.N.C. 2005) (drug trafficking); *Atty. Griev. Comm'n of Md.* v. *Blair,* 188 A.3d 1009 (Md. Ct. App. 2018) (money laundering drug trafficking proceeds); *State* v. *Harris,* 861 A.2d 165 (NJ Super. Ct. App. Div. 2004) (money laundering, theft); U.S. Department of Justice, Press Release, ''Associate of Sanctioned Oligarch Indicted for Sanctions Evasion and Money Laundering: Fugitive Vladimir Vorontchenko Aided in Concealing Luxury Real Estate Owned by Viktor Vekselberg'' (Feb. 7, 2023), *available at https://www.justice.gov/usao-sdny/pr/associate-sanctioned-oligarch-indicted-sanctions-evasion-and-money-laundering;* U.S. Department of Justice, Press Release, United States Reaches Settlement to Recover More Than $700 Million in Assets Allegedly Traceable to Corruption Involving Malaysian Sovereign Wealth Fund (Oct. 30, 2019), *available at https://www.justice.gov/opa/pr/united-states-reaches-settlement-recover-more-700-million-assets-allegedly-traceable;* U.S. Department of Justice, Press Release, ''Acting Manhattan U.S. Attorney Announces $5.9 Million Settlement of Civil Money Laundering And Forfeiture Claims Against Real Estate Corporations Alleged to Have Laundered Proceeds of Russian Tax Fraud'' (May 12, 2017), *available at https://www.justice.gov/usao-sdny/pr/acting-manhattan-us-attorney-announces-59-million-settlement-civil-money-laundering-and.*

[13] As explained in the notice of proposed rulemaking (NPRM) issued on February 16, 2024, while other investigative methods and databases may be available to law enforcement seeking information concerning persons involved in non-financed transfers of residential real property, the information obtained through such investigative methods or the databases themselves are often incomplete, unreliable, and diffuse, resulting in misalignment between those methods or sources and the potential risks posed by the transfers. For example, the non-uniformity of the title transfer processes across states and the fact that the recording of title information is largely done at the local level complicates and hinders investigative efforts. To presently verify how many non-financed purchases of residential real property a known illicit actor has made, law enforcement may have to issue subpoenas and travel to multiple jurisdictions—assuming that they are known—to obtain the relevant information. Law enforcement is also likely to experience difficulty in finding beneficial ownership information for legal entities or trusts not registered in the United States which have engaged in non-financed transfers of residential real estate. Furthermore, existing commercial databases do not collect much of the information that is the focus of this rule, such as that involving funds transfers. In these respects, a search of Real Estate Reports would be a far more efficient and complete mechanism. *See* FinCEN, NPRM, ''Anti-Money Laundering Regulations for Residential Real Estate Transfers,'' 89 FR 12424, 12430 (Feb. 16, 2024).

[14] *See* 31 U.S.C. 5326; 31 CFR 1010.370; Treasury Order 180–01 (Jan. 14, 2020), *available at https://home.treasury.gov/about/general-information/orders-and-directives/treasury-order-180-01.* In general, a GTO is an order administered by FinCEN which, for a finite period of time, imposes additional recordkeeping or reporting requirements on domestic financial institutions or other businesses in a given geographic area, based on a finding that the additional requirements are necessary to carry out the purposes of, or to prevent evasion of, the BSA. The statutory maximum duration of a GTO is 180 days, though it may be renewed.

purchases of residential real estate above a specific price threshold by certain legal entities in select metropolitan areas of the United States. In combination with the numerous public law enforcement actions illustrating the heightened risks posed by non-financed transfers to legal entities and trusts, information obtained from the Residential Real Estate GTOs, as well as other studies conducted by Treasury and FinCEN, FinCEN has confirmed the need for a more permanent regulatory solution that would require consistent reporting of information about certain high-risk real estate transfers.

a. Benefits of Reporting

The Residential Real Estate GTOs have been effective in identifying the risks of non-financed purchases of residential real estate by providing relevant information about such transfers to law enforcement within specified geographic areas. Indeed, FinCEN regularly receives feedback from law enforcement partners that they use the information to generate new investigative leads, identify new and related subjects in ongoing cases, and support prosecution and asset forfeiture efforts. Law enforcement has also made requests to FinCEN to expand the Residential Real Estate GTOs to new geographic areas, which FinCEN has done multiple times, adding both additional metropolitan areas and methods of payment. This has provided law enforcement with additional insight into the risks in both the luxury and non-luxury residential real estate markets.

The Residential Real Estate GTOs have also proven the benefit of having reports identifying high risk residential real estate transfers housed in the same database as other BSA reports, such as traditional SARs and currency transaction reports (CTRs). For example, housing reports filed under the Residential Real Estate GTOs in the same database as other BSA reports enables FinCEN to cross-reference identifying information across reports, and having done so, FinCEN has been able to determine that a substantial proportion of purchases reported under the Residential Real Estate GTOs have been conducted by persons also engaged in other activity that financial institutions have characterized as suspicious. Specifically, FinCEN has found that from 2017 to early 2024, approximately 42 percent of non-financed real estate transfers captured by the Residential Real Estate GTOs were conducted by individuals or legal entities on which a SAR has been filed. In other words, individuals engaging in a type of transaction known to be used to further illicit financial activity—the non-financed purchase of residential real estate through a legal entity—are also engaging in other identified forms of suspicious activities. The ability to connect these activities across reports allows law enforcement to efficiently identify potential illicit actors for investigation and build out current investigations.

b. Necessity of a Permanent Nationwide Reporting Requirement

The Residential Real Estate GTOs, while effective within the covered geographic areas, do not address the illicit finance risks posed by certain real estate transfers on a nationwide basis—a significant shortcoming. For instance, a study of money laundering through real estate in several countries by Global Financial Integrity, a non-profit that studies illicit financial flows, money laundering, and corruption, found that, of Federal money laundering cases involving real estate between 2016 and 2021, nearly 61 percent involved at least one transfer in a county not covered by the Residential Real Estate GTOs. FinCEN believes that money laundering through real estate is indeed a nationwide problem that jurisdictionally limited reporting requirements are insufficient to address.[15] Furthermore, the Residential Real Estate GTOs were also intended to be a temporary information collection measure. Thus, FinCEN believes that a more comprehensive and permanent regulatory approach is needed.

B. The Notice of Proposed Rulemaking

On February 16, 2024, FinCEN published a notice of proposed rulemaking (NPRM) proposing a reporting requirement to address the risks related to non-financed transfers of residential real estate to either a legal entity or trust on a nationwide basis.[16] The proposal targeted the transfers that posed a high risk for illicit finance and was built on lessons learned from the Residential Real Estate GTOs and from public comments received in response to an Advance Notice of Proposed Rulemaking.[17] Importantly, the NPRM was narrowly focused and did not propose a reporting requirement for most transfers of residential real estate—for example, it excluded purchases that involve a mortgage or other financing from a covered financial institution, as well as any transfer, including all-cash transfers, to an individual.

In the NPRM, FinCEN proposed that certain persons involved in residential real estate closings and settlements file a version of a SAR—referred to as a ''Real Estate Report''—focused exclusively on certain transfers of residential real property. The persons subject to this reporting requirement were deemed reporting persons for purposes of the proposed rule. Under the proposed rule, a reporting person would be determined through a ''cascading'' approach based on the function performed by the person in the real estate closing and settlement. The proposed cascade was designed to minimize burdens on persons involved in real estate closings and settlements, while leaving no reporting gaps and creating no incentives for evasion.[18] To provide some flexibility in this reporting cascade, FinCEN's proposal included the option to designate (by agreement) a reporting person from among those in the cascade.

As proposed, information to be reported in the Real Estate Report would identify the reporting person, the legal entity or trust (including any legal arrangement similar in structure or function to a trust) to which the residential real property was transferred, the beneficial owners of that transferee entity or transferee trust, the person that transferred the residential real property, and the property being transferred, along with certain transactional information about the transfer. Regarding beneficial ownership information that a reporting person would be required to report, the rule proposed that a reporting person could collect such information directly from a

[15] Global Financial Integrity, ''Acres of Money Laundering: Why U.S. Real Estate is a Kleptocrat's Dream'' (Aug. 2021), p. 26, *available at https://gfintegrity.org/report/acres-of-money-laundering-why-u-s-real-estate-is-a-kleptocrats-dream/*. According to its website, Global Financial Integrity is ''a Washington, DC-based think tank focused on illicit financial flows, corruption, illicit trade and money laundering.'' *See* Global Financial Integrity, ''About,'' *available at https://gfintegrity.org/about/*.

[16] *See supra* note 13.

[17] *See* FinCEN, Advance Notice of Proposed Rulemaking, ''Anti-Money Laundering Regulations for Real Estate Transactions,'' 86 FR 69589 (Dec. 8, 2021).

[18] Through the proposed reporting cascade hierarchy, a real estate professional would be a reporting person required to file a report and keep records for a given transfer if the person performs a function described in the cascade and no other person performs a function described higher in the cascade. For example, if no person is involved in the transfer as described in the first tier of potential reporting persons, the reporting obligation would fall to the person involved in the transfer as described in the second tier of potential reporting persons, if any, and so on. The reporting cascade includes only persons engaged as a business in the provision of real estate closing and settlement services within the United States.

transferee or a representative of the transferee, so long as the person certified that the information was correct to the best of their knowledge. On the timing of the reports, the proposed rule stated that the reporting person was required to file the Real Estate Report no later than 30 days after the date of closing.

C. Comments Received

In response to the NPRM, FinCEN received 621 comments, 164 of which were unique. Submissions came from a broad array of individuals, businesses, and organizations, including trade associations, transparency groups, law enforcement representatives, and other interested groups and individuals.

General support for the rule was expressed by law enforcement officials, transparency groups, certain industry associations, and individuals. For instance, attorneys general of 25 states and territories jointly submitted a comment stating that the proposed regulations would permit Federal, State, and local law enforcement to access information about suspicious real estate transfers more efficiently because that information would all be available from a single source, and that the information would aid them in identifying suspicious residential real estate transfers on a nationwide basis that might otherwise remain undetected. These attorneys general and one industry association applauded FinCEN's choice to use a transaction-specific reporting mechanism rather than imposing an AML/CFT program requirement on persons involved in real estate closings and settlements. One non-profit commenter expressed support for FinCEN's recognition of the wide-ranging impacts that money laundering through real estate can have on tenants, homebuyers, and the affordability and stability of regional housing markets and believed the rule will improve housing access. Two industry associations expressed strong support for the proposed rule, with one commenter expressing the view that it reflected a pragmatic approach. One industry association and an individual commenter stated that a permanent and nationwide rule would provide greater predictability and certainty to industry than Residential Real Estate GTOs.

Other commenters expressed opposition to the proposed rule. Some expressed concern about FinCEN's legal authority to impose a reporting requirement in the manner set forth in the proposed rule. Other commenters argued that the proposed reporting requirement would be ineffective, burdensome, or would require reporting of information that is reported to the government through other avenues. The majority of private sector commenters—primarily small businesses, individuals employed in the real estate industry, and certain trade associations—asserted that the proposed reporting requirements are too broad and complex and would be burdensome to implement. They further assert that this would result in increased costs for businesses and, ultimately, consumers, potentially delaying closings and causing consumers to decline to seek their services. Many of these commenters expressed concerns that the proposed regulations, if finalized without significant change, would impose numerous and costly reporting and recordkeeping requirements on small businesses. Some commenters suggested the proposed rule would put large businesses at a competitive disadvantage while others suggested the same about small businesses. These commenters also suggested that the proposed regulation would create privacy and security concerns with respect to personally identifiable information. A number of these commenters suggested that FinCEN either not issue a final regulation or adopt a narrower approach, requiring reporting of less information on fewer transfers. Several commenters suggested that attorneys that fulfill any of the functional roles set out in the reporting cascade should not be required to report, primarily due to concerns about attorney-client privilege and confidentiality requirements.

Furthermore, many commenters suggested a range of modifications to the proposed regulations to: enhance clarity; reduce the potential burdens to industry; include or exclude certain professions from reporting requirements; refine the impact to certain segments of the industry; and enhance the usefulness of the resulting reports. Several commenters also asked hypothetical questions that sought clarification on the application of the proposed rule to certain situations.

FinCEN carefully reviewed and considered each comment submitted, and a more detailed discussion of comments appears in Section III. FinCEN believes that the regulatory requirements set out in this final rule reflect the appropriate balance between ensuring that reports filed under the rule have a high degree of usefulness to law enforcement and minimizing the compliance burden incurred by businesses, including small businesses. As detailed in Section III, FinCEN has made several amendments to the proposed rule that are responsive to commenters and that may also reduce certain anticipated burdens.

III. Discussion of Final Rule

A. Overview

FinCEN is issuing a final rule that generally adopts the framework set out in the proposed rule but makes certain modifications and clarifications that are responsive to comments. The final rule imposes a reporting requirement on ''reporting persons'' that are involved in certain kinds of transfers of residential real property. In response to comments, the rule adopts a reasonable reliance standard, allowing reporting persons to, in general, reasonably rely on information obtained from other persons. FinCEN has also made other amendments in the final rule that are intended to clarify and simplify the reporting requirements, such as clarifying the definition of residential real property. Additionally, the rule excludes several additional transfers from needing to be reported, including one designed to exempt certain transfers commonly executed for estate and tax planning purposes. FinCEN also limited the requirement to retain certain records. We discuss these and other specific issues, comments, modifications, and clarifications in this section, beginning with issues that cut across the entire rule and continuing with a section-by-section analysis of changes and clarifications to the regulatory text, including sections for which FinCEN received no feedback from commenters.

FinCEN notes that it will consider issuing frequently asked questions (FAQs) and other guidance, as appropriate, to further clarify the application of the rule to specific circumstances. FinCEN also intends to continue to engage with stakeholders, for example through public outreach events, to assist with ensuring that the rule's requirements are understood by affected members of the public, including small businesses.

B. Comments Addressing the Rule Broadly

FinCEN received several comments that cut across various provisions of the rule or were otherwise broadly applicable. The subjects addressed by these comments include: FinCEN's authority to issue the rule; alternatives to the reporting and recordkeeping requirements; attorneys as reporting persons; the extent to which a reporting person can rely on information received from other persons; penalties for noncompliance; and the collection of unique identifying numbers. FinCEN

has carefully considered these comments and addresses them below.

1. Authority

Proposed Rule. The NPRM set out the legal authority that authorized the agency's issuance of the rule. Specifically, the NPRM cited the BSA provisions set forth at 31 U.S.C. 5312(a)(2), which defines a financial institution to include ''persons involved in real estate closings and settlements,'' and at 31 U.S.C. 5318(g), authorizing FinCEN to impose a requirement on financial institutions to report suspicious activity reports, and to establish streamlined processes regarding the filing of such reports.

Comments Received. Several commenters questioned the legal authority underpinning the rule and the BSA reporting regime more generally, with one commenter stating that ''the Constitutionality of this regime is not an entirely closed question.'' These commenters argued that the rule potentially infringes on certain constitutional rights and that it is inconsistent with certain statutes and Executive Orders (EOs), citing primarily to Gramm-Leach-Bliley Act (GLBA) and E.O. 12866. With regard to GLBA, one commenter stated that ''[t]he [r]ule proposed by FinCEN directly clashes with the legal guideposts and requirements of the GLBA.''

Final Rule. FinCEN is issuing this final rule pursuant to its BSA authority to require ''financial institutions'' to report ''suspicious transactions'' under 31 U.S.C. 5318(g)(1); the rule falls squarely within the scope of this authority. As discussed in the NPRM and in Section II.A.1 of this final rule, ''persons involved in real estate closings and settlements'' are a type of ''financial institution'' under the BSA.[19] As such, FinCEN has clear statutory authority to require ''persons involved in real estate closings and settlements'' to file reports on suspicious activity,[20] and courts have long affirmed the constitutionality of, such reporting requirements.[21] Furthermore, a more recent amendment to the BSA at 31 U.S.C. 5318(g)(5)(D) provides FinCEN with additional flexibility to tailor the form of the SAR reporting requirement. Consistent with that authority, FinCEN is instituting a streamlined SAR filing requirement to require specified ''persons involved in real estate closings and settlements'' to report certain real estate transactions that FinCEN views as high-risk for illicit finance.

With regard to the comment concerning the relationship between the final rule and GLBA, FinCEN notes that information in reports filed under the BSA, which will include any information in a Real Estate Report, is exempt from the requirements of GLBA.[22] Finally, FinCEN notes that significant comments relating to applicable E.O. are addressed in the regulatory impact analysis in this final rule.

2. Suggested Alternatives to Proposed Rule

Proposed Rule. The NPRM proposed that certain persons involved in the closing and settlement of real estate report and keep records about certain non-financed transfers of residential real estate to certain legal entities and trusts.

Comments Received. Commenters suggested several alternatives to the proposed reporting and recordkeeping requirement. One commenter suggested expanding the Internal Revenue Service (IRS) Form 1099–S to include the collection of buyer-side information in addition to the seller-side information already collected. Some commenters suggested that, rather than requiring reporting by real estate professionals, FinCEN should require reporting from county clerk offices when they accept a deed for a reportable transfer or directly from transferees before a reportable transfer. Finally, other commenters urged FinCEN to fund alternative databases or purchase access to electronic records at each county clerk's office and monitor filed deeds.

Final Rule. The final rule retains the fundamental framework of the proposed rule. FinCEN believes that the alternatives suggested by commenters are either technically or legally unworkable and would likely not result in the reporting of information that is equally useful to law enforcement. First, the IRS Form 1099–S is filed annually, making it significantly less useful to law enforcement and, as discussed in the NPRM,[23] is not readily available for FinCEN or broader law enforcement uses due to confidentiality protections around federal taxpayer information. Second, FinCEN believes that county clerks' offices and individuals do not typically play a role in the kinds of transfers that would require reporting. Therefore, these individuals would not likely be in a position to interact with both the transferor(s) and the transferee(s), and thus, may not have ready access to reportable information. Regarding the suggested alternative of collecting reportable information directly from transferees instead of through reporting persons, FinCEN believes that buyers and sellers would be less willing to share personal information with each other than with a real estate professional fulfilling a function described in this rule's reporting cascade. Third, simply monitoring deeds at the county clerk level would likely not produce the information, including beneficial ownership and payment information, that FinCEN believes is important to law enforcement in combating illicit actors' abuse of opaque legal structures in the residential real estate market. Further, funding alternative databases would similarly not result in this information being made available to law enforcement, as private service providers would be unable to gather the same variety of highly relevant information, and any information they did provide would not be consolidated in a database with other BSA reports. The consolidation of Real Estate Reports with other BSA reports—including, but not limited to, traditional SARs, CTRs, Reports of Cash Payments Over $10,000 Received in a Trade or Business (Forms 8300), and Reports of Foreign Bank and Financial Accounts—is important for law enforcement purposes, as doing so will allow law enforcement to efficiently cross-reference information across the various BSA reports.

3. Attorneys as Potential Reporting Persons

Proposed Rule. Under the proposed rule, attorneys could potentially be subject to a reporting requirement if they perform any of the real estate closing and settlement functions described in the reporting cascade. The proposed rule did not differentiate between attorneys and non-attorneys when they perform the same functions involving transfers of residential real property.

Comments Received. A number of commenters addressed the inclusion of attorneys in the reporting cascade. In general, legal associations opposed the inclusion of attorneys performing certain closing and settlement functions in the cascade as reporting persons, while others, in particular transparency organizations, supported the inclusion of attorneys as reporting persons. Commenters opposed to inclusion of attorneys generally argued that an attorney could not act as a reporting

[19] 31 U.S.C. 5312(a)(2)(U); *see* FinCEN, NPRM, ''Anti-Money Laundering Regulations for Residential Real Estate Transfers,'' 89 FR 12424, 12427 (Feb. 16, 2024).

[20] *See* 31 U.S.C. 5318(g).

[21] *See California Bankers Ass'n* v. *Shultz,* 416 U.S. 21 (1974); *U.S.* v. *Miller,* 425 U.S. 435 (1976).

[22] 15 U.S.C. 6802(e)(5).

[23] *See* FinCEN NPRM, ''Anti-Money Laundering Regulations for Residential Real Estate Transfers,'' 89 FR 12424, 12447–12448 (Feb. 16, 2024).

person without either breaching the attorney's professional ethical obligations to maintain client confidentiality or violating attorney-client privilege. Some commentors also suggested that FinCEN lacks legal authority to regulate attorneys under the BSA.

Final Rule. FinCEN declines to amend the reporting cascade to exclude attorneys from the requirement to report.

First, FinCEN does not believe that attorneys would violate their professional ethical obligations by filing a Real Estate Report. Although commenters noted that the ABA Model Rules on Professional Conduct generally require attorneys to keep client information confidential regardless of whether it is subject to the attorney-client privilege, Rule 1.6(b)(6) of the Model Rules states that ''[a] lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary . . . to comply with other law or a court order.'' The annotations to the Model Rules further elaborate that ''[t]he required-by-law exception may be triggered by statutes, administrative agency regulations, or court rules.'' FinCEN believes that the Real Estate Report falls squarely within the required-by-law exception described in Rule 1.6(b)(6).

Second, FinCEN believes that the information required in the Real Estate Report (*e.g.,* client identity and fee information) is of a type not generally protected by the attorney-client privilege, and accordingly FinCEN is not persuaded that attorneys should be categorically excluded from the reporting cascade on that basis.[24] Moreover, even if there were an unusual circumstance in which some information required to be reported in the Real Estate Report might arguably be subject to the attorney-client privilege, an attorney in such an unusual situation need not assume a reporting obligation, as that attorney might allow other parties in the reporting cascade to file the Real Estate Report through a designation agreement or, in certain circumstances, might decline to perform the function that triggers the obligation. It is therefore unlikely that any attorney would necessarily be required to disclose privileged information. Nonetheless, FinCEN expects to issue guidance that will address the rare circumstance in which an attorney is concerned about the disclosure of potentially privileged information, which will provide further information on the mechanism for asserting the attorney-client privilege and appropriately filing the relevant Real Estate Report.

Similarly, FinCEN is not persuaded by commentors who argued that FinCEN lacks the authority to regulate attorneys under the BSA, claiming that the BSA does not clearly evince an intention to regulate attorneys. The BSA expressly authorizes regulation of ''persons involved in real estate closings and settlements,'' and it is common for such persons to be attorneys. Congress thus made clear its intention to authorize regulation of functions commonly performed by attorneys, and it would be anomalous to regulate those functions only when performed by non-attorneys. FinCEN also notes that attorneys are not exempt from submitting reporting forms to FinCEN in other contexts in which they are not explicitly identified by statute, such as with FinCEN Form 8300, which must be submitted by any ''[a]ny person . . . engaged in a trade or business.'' All courts of appeals that have considered the question have concluded that Form 8300 reporting requirements do not per se violate the attorney-client privilege and that attorneys must file such a form absent certain narrow exceptions.[25]

4. Reasonable Reliance Standard

Proposed Rule. Proposed 31 CFR 1031.320(e)(3) provided that the reporting person may collect beneficial ownership information for the transferee entity or transferee trust directly from a transferee or a representative of the transferee, so long as the person certifies in writing that the information is correct to the best of their knowledge. However, the proposed rule did not state whether and to what extent a reporting person could rely on information provided by other persons in the context of other required information (*i.e.,* other than beneficial ownership information) required under the rule or to make any determination necessary to comply with the rule.

Comments Received. Several commenters asked for clarification of this provision, suggesting that the burden to industry would be significant if reporting persons were required to verify the accuracy of each piece of reportable information provided by a transferee or another party, with one commenter questioning whether true verification is possible. Several commenters also expressed liability concerns, including that reporting persons could be penalized if a third party provides information that turns out to be incorrect.

To resolve these concerns, commenters suggested that reporting persons should be able to rely on information provided by the transferee or that the transferee should certify the accuracy of required information beyond beneficial ownership information. One industry group took the reliance standard a step further, suggesting that the reporting person be able to rely on the representations of the transferee for purposes of determining whether the transferee is an exempt entity or trust. One transparency group suggested that the final rule require that reporting persons perform a ''clear error'' or ''best efforts'' check to ensure they are not reporting obviously fraudulent information.

Some commenters suggested that, where a transferee is unwilling to provide complete or accurate information, reporting persons should be allowed to file incomplete forms, with some arguing that ''good faith attempts'' to file reports that are ultimately incomplete should not be penalized. Another argued that the reporting person should be able to simply file the information provided without any responsibility for its accuracy or completeness. However, one transparency group argued that reporting persons should not be allowed to file incomplete forms and that the final rule should clarify that, where a reporting person cannot gather complete information from a transferee, then the reporting person should decline to take part in the real estate transfer. Other commenters similarly questioned whether a reporting person can continue to facilitate a transfer if the transferee refuses to cooperate in providing reportable information. Additionally, one industry group requested that the final rule impose a clear duty on other persons described in the reporting cascade to share information reportable under the proposed rule.

Final Rule. In 31 CFR 1031.320(j), the final rule adopts a reasonable reliance standard that allows reporting persons to reasonably rely on information provided by other persons. As a result, the reporting person generally may rely on information provided by any other person for purposes of reporting information or to make a determination necessary to comply with the final rule, but only if the reporting person does not have knowledge of facts that would

[24] *See, e.g., In re Grand Jury Subpoenas,* 906 F.2d 1485, 1488 (10th Cir. 1990) (collecting cases).

[25] *See; U.S.* v. *Sindel,* 53 F.3d 874, 876 (8th Cir. 1995); *U.S.* v. *Blackman,* 72 F.3d 1418, 1424–25 (9th Cir. 1995); *U.S.* v. *Ritchie,* 15 F.3d 592, 602 (6th Cir. 1994); *U.S.* v. *Leventhal,* 961 F.2d 936, 940 (11th Cir. 1992); *U.S.* v. *Goldberger & Dubin, P.C.,* 935 F.2d 501, 505 (2d Cir. 1991); *In re Grand Jury Subpoenas,* 906 F.2d 1485, 1492 (10th Cir. 1990).

reasonably call into question the reliability of the information. This reasonable reliance standard is consistent with that used by certain financial institutions subject to customer due diligence requirements.[26]

This reasonable reliance standard is slightly more limited when a reporting person is reporting beneficial ownership information of transferee entities or transferee trusts. As expressed in the proposed rule, and as adopted in the final rule, when a reporting person is collecting the beneficial ownership information of transferee entities and transferee trusts. In those situations, the reasonable reliance standard applies only to information provided by the transferee or the transferee's representative and only if the person providing the information certifies the accuracy of the information in writing to the best of their knowledge.

FinCEN recognizes the necessity of permitting reliance on information supplied to the reporting person, considering the time and effort it would take for the reporting person to verify each piece of information independently. FinCEN believes that the reasonable reliance standard is significantly less burdensome than an alternative full verification standard, while still ensuring that obviously false or fraudulent information would not be reported.

As an example, FinCEN expects that the reporting person would be able to reasonably rely on the accuracy of a person's address provided orally or in writing, without reviewing government-issued documentation such as a drivers' license, provided the reporting person does not have reason to question the information provided (*e.g.,* if the information provided were to contain a numerically unlikely ZIP code or the person providing it makes comments bringing into question the reliability of the address or has provided other unreliable information).

As an additional example, in the context of ascertaining whether particular transfers are ''non-financed transfers,'' [27] a reporting person may rely on the information provided by the relevant lender extending credit secured by the underlying residential real property as to whether the lender has an obligation to maintain an AML program and an obligation to report suspicious transactions under 31 CFR Chapter X, provided the reporting person does not have reason to question the lender's information (*e.g.,* if the lender were to represent that he (as a natural person) is subject to AML obligations).

In response to the comment requesting that FinCEN permit the filing of an incomplete report, FinCEN declines to add language to the regulation to provide for that option. FinCEN believes that allowing for the submission of incomplete reports could make it easier for transferees to avoid reporting requirements while simultaneously also making it difficult for FinCEN to ensure compliance with the rule. It could also greatly reduce the reports' utility to law enforcement. FinCEN believes the adoption of the reasonable reliance standard addresses many of the concerns expressed about access to reportable information.

Finally, FinCEN does not adopt the suggestion that a legal duty be imposed on other persons in the reporting cascade to share reportable information with the reporting person. FinCEN believes that the reasonable reliance standard will make the sharing of information easier and therefore will decrease potential friction among the persons described in the reporting cascade. Further, FinCEN believes that reporting persons are unlikely to perform the function described in the reporting cascade until they have either obtained the required information or are reasonably certain that they will be able to obtain it soon after the date of closing. If information cannot be obtained from a person in the reporting cascade, the reporting person would reach out directly to a relevant party to the transfer (*e.g.,* the transferee) to gather the missing information.

FinCEN notes that there is no exception from reporting under the final rule should a transferee fail to cooperate in providing information about a reportable transfer. The final rule does not authorize the filing of incomplete reports, and a reporting person who fails to report the required information about a reportable transfer could be subject to penalties. However, FinCEN will consider issuing additional public guidance to assist the financial institutions subject to these regulations in complying with their reporting obligations.

5. Penalties

Proposed Rule. The proposed rule did not include a specific reference to potential penalties for noncompliance, as those penalties are already set forth in the provisions of the BSA that discuss criminal and civil penalties for violating a BSA requirement.

Comments Received. Several commenters sought clarification about penalties for noncompliance, with one commenter noting that the proposed rule did not explicitly address potential penalties for failing to file a report or for filing an inaccurate report.

Final Rule. Consistent with the NPRM, FinCEN believes that it is unnecessary to list potential penalties in the regulatory text because the applicable penalties are already set forth by statute. Negligent violations of the final rule could result in a civil penalty of, as of the publication of the final rule, not more than $1,394 for each violation, and an additional civil money penalty of up to $108,489 for a pattern of negligent activity.[28] Willful violations of the final rule could result in a term of imprisonment of not more than five years or a criminal fine of not more than $250,000, or both.[29] Such violations also could result in a civil penalty of, as of the publication of the final rule, not more than the greater of the amount involved in the transaction (not to exceed $278,937) or $69,733.[30] This penalty structure generally applies to any violation of a BSA requirement.[31] FinCEN intends to conduct outreach to potential reporting persons on the need to comply with the final rule's requirements.

6. Unique Identifying Numbers

Proposed Rule. Proposed 31 CFR 1031.320(e) set forth requirements for the reporting person to report a unique identifying number of the transferee entity or transferee trust, the beneficial owners of the transferee entity or trust, the individuals signing documents on behalf of the transferee entity or trust, and the trustee of a transferee trust. FinCEN proposed that the specific form of unique identifying number required would be a taxpayer identification number (TIN) issued by the IRS, such as a Social Security Number or Employer Identification Number. However, the proposed rule provided that, when no IRS TIN had been issued, the proposed rule required the reporting of a foreign tax identification number or other form of foreign identification number, such as a passport number or entity registration number issued by a foreign government.

Comments Received. One commenter argued against the collection of TINs as a unique identifying number, citing to the reporting requirements of the Beneficial Ownership Information

[26] 31 CFR 1010.230(b)(2).

[27] Discussed below in Section III.C.2.b.

[28] 31 U.S.C. 5321.

[29] 31 U.S.C. 5322.

[30] 31 U.S.C. 5321; 31 CFR 1010.821.

[31] *See* FinCEN, ''Financial Crimes Enforcement Network (FinCEN) Statement on Enforcement of the Bank Secrecy Act'' (Aug. 18, 2020), *available at https://www.fincen.gov/sites/default/files/shared/FinCENEnforcementStatement_FINAL508.pdf.*

Reporting Rule (BOI Reporting Rule).[32] In the NPRM for the BOI Reporting Rule,[33] which was issued pursuant to the Corporate Transparency Act (CTA),[34] FinCEN initially proposed the voluntary reporting of TINs by a reporting company of its beneficial owners but eliminated this optional reporting in the final rule. The final BOI Reporting Rule does, however, require that reporting companies report their own TINs.[35]

Final Rule. In the final rule, FinCEN adopts the proposed requirement to collect the unique identifying numbers of entities and individuals, including their TINs, but clarifies that, for legal entities, a unique identifying number is required only if such number has been issued to that entity. The proposed rule contained a similar provision for transferee trusts, which the final rule adopts. In the trust context, no unique identifying number would need to be reported if a unique identifying number has not been issued to the trust. For instance, there may be a situation in which a transferee trust has not been issued an IRS TIN, nor has it been issued any of the foreign identifying numbers set out in the rule. With the clarifying edit to the unique identifying numbers required for legal entities, the rule makes clearer that a unique identifying number would similarly not be required to be reported in such a situation. FinCEN notes that the final rule does not extend this language to the TINs of individuals, as FinCEN expects that individuals will have been issued one of the unique identifying numbers required by the regulations.

While FinCEN continues to acknowledge that IRS TINs are subject to heightened privacy concerns and that the collection of such information could entail cybersecurity and operational risks, several factors weighed heavily in its decision to retain this requirement. TINs are commonly required on other BSA reports, including, for example, Forms 8300, which FinCEN notes are commonly filed by the real estate industry. Furthermore, TINs are frequently necessary to identify the same actors, particularly those with similar names or those using aliases, across different BSA reports and investigations. FinCEN believes that nearly all reporting persons—primarily businesses performing functions typically conducted by settlement companies, including many that already file reports containing TINs with the government—will have preexisting data security systems and programs to protect information such as TINs, particularly since such information is often collected in the course of financed transfers of residential real estate.

C. Section-by-Section Analysis

1. 31 CFR 1031.320(a) General

FinCEN did not receive any comments to the general paragraph of the proposed rule found in proposed 31 CFR 1031.320(a), which provided a framework for the rule. That paragraph has been adopted in the final rule without substantial change. The technical changes that have been made include the renumbering of paragraph references, the addition of a reference to a new paragraph discussing the concept of reasonable reliance, and certain clarifying changes, such as the addition of language clarifying that reports required under this section and any other information that would reveal that a reportable transfer has been reported are not confidential.

2. 31 CFR 1031.320(b) Reportable Transfer

The proposed rule defined a reportable transfer as a non-financed transfer of any ownership interest in residential real property to a transferee entity or transferee trust, with certain exceptions. These proposed exceptions, found in 31 CFR 1031.320(b), reflected FinCEN's intent to capture only higher risk transfers. The proposed rule provided that transfers would be reportable irrespective of the value of the property or the dollar value of the transaction; there was no proposed dollar threshold for a reportable transfer. The proposed rule also provided that transfers would only be reportable if a reporting person is involved in the transfer and if the transferee is either a legal entity or trust. Transfers between individuals would not be reportable.

a. Residential Real Property

Proposed Rule. Proposed 31 CFR 1031.320(b) defined ''residential real property'' to include real property located in the United States containing a structure designed principally for occupancy by one to four families; vacant or unimproved land located in the United States zoned, or for which a permit has been issued, for the construction of a structure designed principally for occupancy by one to four families; and shares in a cooperative housing corporation.

Comments Received. Several commenters argued that reporting persons would not have ready access to the zoning or permitting information necessary to determine whether vacant or unimproved land is reportable under the rule. Commenters noted that reporting persons do not routinely determine zoning information and that accurate zoning information may take several weeks to obtain. Examination of permits, they argued further, would take similar time and effort. Some commenters also noted that purchases of unimproved or vacant land are often for lower dollar amounts and therefore present a lower risk for money laundering. Two other commenters suggested that the determination of whether a property is ''residential real property'' as defined under the rule should turn on whether the real estate sales contract or purchase and sale agreement describes the property as being residential.

Furthermore, two commenters suggested that the proposed definition of residential real property lacked clarity, with one focusing on the treatment of mixed-use property and the other requesting that the definition provide clearer criteria, taking into account the treatment of residential real estate under tax law, zoning processes, and mortgage agreements, with examples provided. Another commenter suggested that FinCEN provide a non-exhaustive list of possible transfers intended to be subject to reporting requirements and that the list specifically include any transfer of ownership and any creation of an equitable interest, whether in whole or in part, directly or indirectly, in the property. One commenter requested clarity as to whether a transfer of residential real property as defined under the rule includes assignment contracts.

Final Rule. The definition of residential real property in paragraph 31 CFR 1031.320(b), as adopted in the final

[32] The BOI Reporting Rule implements the CTA's reporting provisions. In recognition of the fact that illicit actors frequently use corporate structures to obfuscate their identities and launder ill-gotten gains, the BOI Reporting Rule requires certain legal entities to file reports with FinCEN that identify their beneficial owners. *See* FinCEN, ''Beneficial Ownership Information Reporting Requirements,'' 87 FR 59498 (Sept. 30, 2022). Access by authorized recipients to beneficial ownership information collected under the CTA are governed by other FinCEN regulations. *See* FinCEN, ''Beneficial Ownership Information Access and Safeguards,'' 88 FR 88732 (Dec. 22, 2023).

[33] *See* FinCEN, NPRM, ''Beneficial Ownership Information Reporting Requirements,'' 86 FR 69920 (Dec. 8, 2021).

[34] The CTA is Title LXIV of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283 (Jan. 1, 2021) (the NDAA). Division F of the NDAA is the Anti-Money Laundering Act of 2020, which includes the CTA. Section 6403 of the CTA, among other things, amends the Bank Secrecy Act (BSA) by adding a new section 5336, Beneficial Ownership Information Reporting Requirements, to subchapter II of chapter 53 of title 31, United States Code.

[35] *See* 31 CFR 1010.380(b)(1)(i).

rule, contains several modifications and clarifications of the language in the proposed rule. This definition continues to include vacant or unimproved land, as FinCEN does not agree with the comment suggesting that transfers of such property inherently pose a lower risk for money laundering.

The revised definition addresses the difficulty raised by commenters in determining whether vacant or unimproved land is zoned or permitted for residential use by focusing on whether the transferee intends to build on the property a structure designed principally for occupancy by one to four families. Furthermore, the new provision added to the rule concerning reasonable reliance permits the reporting person to reasonably rely on information provided by the transferee to determine such intent. To address comments that requested clarity on whether mixed-use property qualifies as residential real property, the definition of residential real property also clarifies that separate residential units within a building, such as individually owned condominium units, as well as entire buildings designed for occupancy by one to four families, are included.

Taking into account the above changes, the definition of residential real property is now: (1) real property located in the United States containing a structure designed principally for occupancy by one to four families; (2) land located in the United States on which the transferee intends to build a structure designed principally for occupancy by one to four families; (3) a unit designed principally for occupancy by one to four families within a structure on land located in the United States; or (4) any shares in a cooperative housing corporation for which the underlying property is located in the United States. Given the ability for a reporting person to reasonably rely on information obtained from other persons, FinCEN declines to adopt the other suggestions made by some of the commenters to facilitate the determination of whether the property is residential in nature. FinCEN further notes that the definition is meant to include property such as single-family houses, townhouses, condominiums, and cooperatives, including condominiums and cooperatives in large buildings containing many such units, as well as entire apartment buildings designed for one to four families. Furthermore, transfers of such properties may be reportable even if the property is mixed use, such as a single-family residence that is located above a commercial enterprise.

FinCEN also notes that the rule is not designed to require reporting of the transfer of contractual obligations other than those demonstrated by a deed or, in the case of a cooperative housing corporation, through stock, shares, membership, certificate, or other contractual agreement evidencing ownership. Therefore, the transfer of an interest in an assignment contract would not be reportable. Assignment contracts typically involve a wholesaler contracting with homeowners to buy residential real property and then assigning their rights in the contract to a person interested in owning the property as an investment. The eventual purchase of the property by the assignee investor may be reportable under this rule because a transfer of an ownership interest demonstrated by a deed has occurred, but the initial signing of the contract between the assignor and the original homeowner would not be reportable.

b. Non-Financed Transfers

Proposed Rule. Proposed 31 CFR 1031.320(b)(1) defined the term ''reportable transfer'' to only include transfers that do not involve an extension of credit to all transferees that is both secured by the transferred residential real property and extended by a financial institution that has both an obligation to maintain an AML program and an obligation to report suspicious transactions under 31 CFR Chapter X. As explained in the NPRM, FinCEN considers such transfers to be ''non-financed'' for purposes of this rule.

Comments Received. One industry organization noted that the proposal would result in reporting when an individual transfers property subject to qualified financing to a trust, because the qualified financing is in the name of the transferor rather than the transferee trust. Another commenter similarly requested clarity as to whether the reporting of non-financed transfers applies only with respect to qualified financing held by the transferee, as opposed to qualified financing held by the transferor.

Two transparency organizations requested that FinCEN clarify whether partially financed transfers are reportable. These commenters cited as examples a situation in which some or all of the source of funds originate from entities or beneficial owners that have not undergone AML checks from a covered financial institution or where qualified credit is extended to some, but not all, beneficial owners of transferees. Finally, one commenter requested clarity as to how the reporting person would determine if the transfer is non-financed.

Final Rule. The substance of the definition of a ''non-financed transfer'' is adopted as proposed, but FinCEN has elected to move the definitions paragraph of the rule to 31 CFR 1031.320(n)(5). FinCEN declines to adopt the commenter's suggestion to include a specific carveout in the definition to account for transfers where the qualified financing is extended to the grantor or settlor of a trust, rather than to the trust itself—an issue raised in the comments. This situation is addressed, however, in the new exception for certain transfers to trusts for no consideration, discussed in depth in Section III.C.2.c.

In regards to requests for clarity about whether partially financed transfers meet the definition of a non-financed transfer, FinCEN notes that partially financed transfers involving one transferee (for example, in which the transferee entity or transferee trust puts down a 50 percent down payment but obtains a mortgage to finance the rest of the transfer) would not be reported. However, the definition of a non-financed transfer would result in reporting of transfers in which there are multiple transferee entities or transferee trusts receiving the property and financing is secured by some, but not all, of the transferees.

As to the comment questioning how reporting persons would determine whether a transfer is non-financed, it has been FinCEN's experience with the Residential Real Estate GTOs that persons required to report have readily determined whether a given financial institution extending financing has such AML program obligations by asking the financial institution directly. The reporting person can reasonably rely on the representations made by the financial institution.

c. Excepted Transfers

Proposed Rule. Proposed 31 CFR 1031.320(b)(2) provided exceptions for transfers that are: the result of a grant, transfer, or revocation of an easement; the result of the death of an owner; incident to divorce or dissolution of marriage; to a bankruptcy estate; to individuals; or for which there is no reporting person.

Comments Received. Support for the proposed exceptions came from an industry group that applauded the decision to except transfers made to individuals. Other commenters did not oppose the proposed regulation and instead suggested modifications or clarifications that built on the proposed

exceptions. Numerous commenters also proposed additional exceptions.

However, FinCEN received several comments suggesting that FinCEN clarify or otherwise amend certain other exceptions, including those proposed for death, divorce, and bankruptcy. Two legal associations proposed that FinCEN clarify the exception for transfers that are the result of a death to ensure that the exception applies even if a transfer is not executed pursuant to a will or where the decedent is not technically the owner of the property at death because the property is owned by a revocable trust set up by the decedent. One legal association suggested that FinCEN expand the proposed exceptions for divorce, death, or bankruptcy to include transfers to certain specific types of trusts. One State bar association suggested that the rule build on the exceptions for death and divorce by excepting any transfers made in connection with a court-supervised legal settlement. A transparency organization recommended limiting the exceptions to transfers made to family members or heirs pursuant to divorce, probate proceedings, or a will, expressing concern that transfers resulting from death or divorce would remain at risk for money laundering.

Multiple commenters requested additional exceptions. Several commenters focused on exceptions for transfers to trusts used for estate or tax planning purposes. A State bar association requested the exclusion of transfers for estate planning purposes that involve no monetary consideration. One commenter suggested excepting gifts between family members, whether being transferred into a trust or legal entity, and in particular suggested excluding transfers to revocable trusts in which the trustee confirms by affidavit that the trustee or the settlor is the same person as the primary beneficiary. Similarly, another State bar association suggested that FinCEN except any intrafamily transfers and transfers into certain trusts created for estate or tax planning purposes, including revocable trusts, irrevocable trusts, irrevocable life insurance trusts, grantor trusts, purpose trusts, qualified personal residence trusts, pooled trusts, special needs and supplemental trusts, creditor protection trusts, various charitable trusts, certain State business trusts, and certain State business associations.

Some commenters suggested exceptions built around the relationship between the transferor and the transferee in the context of estate planning. Two such commenters requested that the final rule exclude any transfer where the transferor is the settlor of a transferee trust, because beneficial ownership of the property would remain the same. A State bar association suggested excluding transfers that include the creation of a self-settled revocable or irrevocable trust, wherein the grantor(s)/settlors(s) of the trust have created it for the benefit of the grantor(s) or members of their family, arguing that such trusts for the purposes of estate planning are low risk for money laundering, and therefore of little interest to FinCEN, and that their exclusion would reduce the number of reports required from reporting persons. In a similar vein, a State land title association suggested the exclusion of living trusts with the same name as the property owner, citing the example of an individual purchasing property in a non-financed transfer and then subsequently transferring the property to a trust for estate planning purposes. A trust and estate-focused legal association similarly suggested the exclusion of transfers to trusts in which at least one of the beneficial owners is the same as the transferor or in which the transfer is for the benefit of the family of the transferor. One legal association asked that exceptions be made for transfers in which there is no change in beneficial ownership of the property and two other commenters similarly requested that FinCEN exclude any transfers where the transferor is the managing or sole member of a transferee entity or is the settlor of a transferee trust. The legal association also suggested an exception when the ownership interest in the property remains within a family.

Two commenters suggested the exclusion of sequential transfers involving a trust. One described these sequential transfers as occurring when an individual purchases residential real property in their own name with a mortgage and subsequently transfers the property to a trust, or when an individual seeks to refinance property held in a trust by transferring title of the property from the trust to the individual, refinancing in the name of the individual, and then transferring title of the property back to the trust. Another commenter stated that properties held in revocable trusts for estate planning are often only removed from the trust for refinancing or taking on additional debt and therefore have oversight from those processing mortgage loans. Such transfers, argued the commenters, are low risk and would result in unnecessary and redundant reporting.

Some commenters suggested excepting transfers where the transferee or transferor is a qualified intermediary for the purposes of 26 U.S.C. 1031 (1031 Exchange), also known as a like-kind exchange. A national trade association for 1031 Exchange practitioners suggested adding an exception that would mirror the exception found in the BOI Reporting Rule for reporting of individuals acting as nominee, intermediary, custodian, or agent on behalf of another individual.[36] Three title insurance associations and two State bar associations urged FinCEN to include an exception for corrective conveyances, one commenter requested exclusion of transfers involving additional insured endorsements, another commenter suggested that FinCEN explicitly exclude foreclosures and evictions, and several commenters suggested that the final rule focus only on foreign transferees.

FinCEN also received a range of comments related to whether a dollar threshold should be included, below which reporting would not be required. In general, commenters representing transparency organizations supported the lack of a threshold in the proposed rule, with one commenter arguing that any threshold would provide a clear path for evasion. Other commenters—mostly real estate associations, businesses, or professionals—advocated for the inclusion of a threshold to reduce the number of reports that would need to be filed and avoid the reporting of transfers perceived as low risk for money laundering. One commenter suggested implementing a $1 threshold, others suggested $1,000, one suggested $10,000, and another suggested adopting the same threshold as FinCEN's Residential Real Estate GTOs.

Final Rule. In the final rule, FinCEN is adopting the exceptions proposed in 31 CFR 1031.320(b)(2) and adding several additional exceptions.

First, in response to comments asking FinCEN to clarify the scope of the exception for transfers resulting from death, FinCEN has adopted language, set forth at 31 CFR 1031.320(b)(2)(ii), to clarify that the exception includes all transfers resulting from death, whether pursuant to the terms of a will or a trust, by operation of law, or by contractual provision. In the context of transfers resulting from death, transfers resulting by operation of law include, without limitation, transfers resulting from intestate succession, surviving joint owners, and transfer-on-death deeds, and transfers resulting from contractual provisions include, without limitation, transfers resulting from beneficiary designations. With respect to inclusion

[36] 31 CFR 1010.380(d)(3)(ii).

of transfers required under the terms of a trust, by operation of law, or by contractual agreements, FinCEN believes such transfers are akin to transfers required by a will, as they result from the death of the grantor or settlor or individual who currently owns the residential real property. As described in the NPRM, the exception was meant to include transfers governed by preexisting legal documents, such as wills, or that generally involve the court system. FinCEN believes that the adopted language will clarify the intended scope of the exception, which is meant to exclude only low-risk transfers of residential real property involving transfers that are required by legal or judicial processes at the time of the decedent's death.

Second, the rule adds an exception for any transfer supervised by a court in the United States at 31 CFR 1031.320(b)(2)(v). This exception builds on a commenter's suggestion to expand the list of exceptions to include transfers made in connection with a court-supervised legal settlement, but is focused on transfers required by a court instead of simply supervised by a court, which narrows the opportunity for such transfers to be abused by illicit actors. FinCEN believes that, like probate and divorce, transfers required as a result of judicial determination in the United States are generally publicly documented and subject to oversight and therefore are subject to a lower risk for money laundering.

Third, while FinCEN did not receive comments on the scope of the exception for transfers incident to divorce or the dissolution of marriage, FinCEN believes it is appropriate to clarify in the regulation that the exception also applies to the dissolution of civil unions and has done so at 31 CFR 1031.320(b)(2)(iii). Civil unions are similar to marriages with regard to property issues in form and function and are terminated in a similar manner—generally with the involvement of courts.

Fourth, in response to the comments requesting exceptions for estate planning techniques and for sequential transfers to trusts, an exception is added at 31 CFR 1031.320(b)(2)(vi) for transfers of residential real property to a trust where the transfer meets the following criteria: (1) the transfer is for no consideration; (2) the transferor of the property is an individual (either alone or with the individual's spouse); and (3) the settlor or grantor of the trust is that same transferor individual, that individual's spouse, or both of them. FinCEN expects that this addition will except many common transfers made for estate planning purposes described by commenters, including transfers described in the exception where the grantor or settlor's family are beneficiaries of the trust, as well as sequential transfers to trusts, such as where the qualified financing is extended to the grantor or settlor rather than to the trust itself and the grantor or settlor then is transferring the secured residential real property for no consideration to the trust.

FinCEN intended to scope this exception in a manner that was responsive to comments but that would not create an overly broad exception that would be open to significant abuse. To be sure, illicit actors are known to use estate planning techniques to obscure the ownership of residential real estate, and all non-financed transfers of residential real estate not subject to this rule are subject to less oversight from financial institutions than financed transfers and are therefore inherently more vulnerable to money laundering. However, transfers in which an individual who currently owns residential real property is funding their own trust with that property are believed to be a lower risk for money laundering because the true owner of the property is not obscured when the property is transferred. Given this limitation on the exception and how common it is for an individual to place residential real property into a trust, whether revocable or irrevocable, for estate planning purposes, FinCEN believes it is appropriate to except such transfers at this time. Additionally, the expanded exception benefits from relying on information readily available to the reporting person, as the reporting person will know the identity of the transferor and can ascertain, such as through a trust certificate, whether the transferor is the grantor or settlor of the trust.

FinCEN does not agree with some commenters that the exception should be broader by excepting transfers where beneficial ownership does not change or where the transfer is an intrafamily one. An exception for such transfers would be difficult for the reporting person to administer, as it would require a review of the dispositive terms of the trust instrument, and it would be difficult for the reporting person to assess the reliability of information provided to them about beneficial ownership or family relationships. FinCEN also does not agree that all such transfers are automatically low risk for money laundering, especially when consideration is involved. Overall, the adopted exception offers a low-risk, bright line that should be easy to understand and implement, lowering the burden on both industry and the parties to the transfer, when compared with the proposed rule.

FinCEN also does not believe that this same logic can be extended to justify excepting transfers of property by an individual to a legal entity owned or controlled by such individual, as some commenters suggested. In the exception described above concerning no consideration transfers to trusts, the exception applies when the transferor of residential real property is also the grantor or settlor of the trust—the identity of the grantor or settlor of the trust is a fact tied to the creation of the trust, is revealed on the face of the trust instrument, and generally cannot be changed. Although the trustee and beneficiaries of the trust may change over time, the identification of the settlor or grantor of the trust generally allows FinCEN to identify the source of the property being contributed to the trust, a factor that is critical to the identification and prevention of money laundering. That same identification and persistent connection with the transferor does not exist in the context of transfers of residential real property to a legal entity, where it is common for various owners of interests in the entity to each contribute assets to it.

Finally, the final rule adopts an exception, at 31 CFR 1031.320(b)(2)(vii), for transfers made to qualified intermediaries for purposes of effecting 1031 Exchanges. Such exchanges are commonly conducted to defer the realization of gain or loss, and, thus, the payment of any related taxes, for Federal income tax purposes.[37] This exception is limited to transfers made to the qualified intermediary; transfers from a qualified intermediary to the person conducting the exchange (the exchanger) remain potentially reportable if the exchanger is a legal entity or trust. When taking ownership of property in a 1031 Exchange, the qualified intermediary is acting on behalf of the exchanger for the limited purpose of effecting the exchange. In addition, the qualified intermediary may hold the property for only a limited

[37] In a 1031 Exchange, real property held for productive use in a trade or business or held for investment is exchanged for other business or investment property that is the same type or kind; as a result, the person conducting the exchange is not required to realize taxable gain or loss as part of the exchange. To avoid the exchange being disqualified, a qualified intermediary may be used to ensure that the exchanger avoids taking premature control of the proceeds from the sale of the relinquished property or, in a reverse 1031 Exchange in which the replacement property is identified and purchased before the original property is relinquished, ownership of the replacement property.

period of time before it jeopardizes the transaction's ability to qualify as a valid 1031 Exchange. Accordingly, FinCEN has determined that requiring the reporting of transfers made to a qualified intermediary would likely result in information that is of lower value to law enforcement. FinCEN considered whether to resolve commenter concerns around qualified intermediaries by relying, as one commenter suggested, on the rule's definition of transferee entity, which adopts by reference the exception found in 31 CFR 1010.380(d)(3)(ii) for the reporting of individuals who are acting as a nominee, intermediary, custodian, or agent. Without noting whether such exception for nominees, intermediaries, custodians, or agents would appropriately apply in the context of qualified intermediaries, FinCEN believes that allowing the broader exception for 1031 Exchanges in this rule more clearly resolves commenter concerns.

The final rule does not adopt the suggestions to exclude corrective conveyances and additional insured endorsements, as FinCEN believes such exceptions are not necessary. Corrective conveyances are used to correct title flaws, such as misspelled names, and are not used to create a new ownership interest in a property. As such, corrective conveyances do not involve a transfer of residential real property and are therefore not reportable. Similarly, additional insured endorsements are used to extend coverage of title insurance to an additional party identified by the policyholder and do not meet the rule's definition of a reportable transfer of residential real property.

The final rule also does not adopt the suggestion to exclude foreclosure sales, although FinCEN notes that foreclosure court proceedings wherein a lender obtains a judgment to foreclose on property would be excluded under the exception for transfers required by a court in the United States. Outside of such court-supervised foreclosure proceedings, FinCEN does not agree that potential reporting persons involved in sales of foreclosed property should be treated differently from other transfers, as such sales, where the property is sold to a third party, do not necessarily present a lower risk for money laundering.

FinCEN also declines to implement the suggestion that the final rule collect information only on foreign transferee entities and trusts. Law enforcement investigations and FinCEN's experience with the Residential Real Estate GTOs have repeatedly confirmed that non-financed transfers of residential real estate to both foreign and domestic legal entities and trusts are high risk for money laundering.

Furthermore, the rule does not adopt suggestions to include a dollar threshold for reporting. Low value non-financed transfers to legal entities and trusts, including gratuitous ones for no consideration, can present illicit finance risks and are therefore of interest to law enforcement. Although the Residential Real Estate GTOs have had an evolving dollar threshold over the course of the program, ranging from over $1 million to the current threshold of $300,000, FinCEN's experience with administering the program and discussions with law enforcement shows that money laundering through real estate occurs at all price points. FinCEN believes that incorporation of a dollar threshold could move illicit activity into the lower priced market, which would be counter to the aims of the rule.[38] Rather than specifically exclude all such transfers from being reported, the final rule includes additional exceptions, discussed here and in Section III.C.2.c, that FinCEN believes will focus the reporting requirement on higher-risk low-value transfers.

d. Transferee Entities

Proposed Rule. Proposed 31 CFR 1031.320(j)(10) provided that a ''transferee entity'' is any person other than a transferee trust or an individual and set out the exceptions from this definition for certain entities, including certain highly regulated entities and government authorities. The definition of transferee entity was meant to include, for example, a corporation, partnership, estate, association, or limited liability company. Among the exceptions FinCEN proposed was an exception for any legal entity whose ownership interests are controlled or wholly owned, directly or indirectly, by an exempt entity.

Comments Received. Some commenters supported the proposed rule's inclusion of transferee entities as defined in the proposed rule, with one transparency organization highlighting that pooled investment vehicles (PIVs) and non-profits are largely exempt from beneficial ownership information reporting requirements under the CTA, which increases their risks for money laundering.

Final Rule. In 31 CFR 1031.320(n)(10), the final rule adopts the proposed definition of ''transferee entity'' with technical edits to two specific exceptions from that definition. First, in 31 CFR 1031.320(n)(10)(O), FinCEN removed the unnecessary inclusion of the acronym ''(SEC)'' because the Securities and Exchange Commission is referred to only once in 31 CFR 1031.320. Second, FinCEN removed the term ''ownership interests'' from 31 CFR 1031.320(n)(10)(P), so that the regulation now excludes from the definition of a transferee entity a ''legal entity controlled or wholly owned, directly or indirectly, by [an excepted legal entity].'' FinCEN made this amendment to avoid potential confusion because the term ''ownership interests'' is specifically defined in the regulations at 31 CFR 1031.320(n)(6) and employed only in relation to residential real property.

e. Transferee Trusts

Proposed Rule. Proposed 31 CFR 1031.320(j)(11) defined ''transferee trust'' as any legal arrangement created when a person (generally known as a grantor or settlor) places assets under the control of a trustee for the benefit of one or more persons (each generally known as a beneficiary) or for a specified purpose, as well as any legal arrangement similar in structure or function to the above, whether formed under the laws of the United States or a foreign jurisdiction. The NPRM proposed several exceptions for certain types of trusts that FinCEN views as highly regulated—for instance, trusts that are securities reporting issuers and trusts that have a trustee that is a securities reporting issuer. Accordingly, such trusts were not covered by the proposed rule. Similarly, the proposed rule excluded statutory trusts from the definition of a transferee trust but, instead, proposed to capture statutory trusts within the definition of a transferee entity.

Comments Received. Several commenters supported the general inclusion of trusts within the scope of the rule and provided examples of money laundering through real estate transfers to trusts. One transparency organization highlighted that trusts are not required to directly report beneficial ownership information under the CTA and are therefore a higher risk for money laundering. However, other commenters were not supportive of the inclusion of trusts, arguing that trusts are: complicated arrangements for which the paperwork would not be easily understood by reporting persons; used for probate avoidance; and inherently low risk.

[38] The current Residential Real Estate GTO threshold is $300,000 for all covered jurisdictions, except for in the City and County of Baltimore, where the threshold is $50,000.

Several commenters suggested excluding living trusts. Three commenters suggested excluding transfers to irrevocable living trusts, arguing either that such trusts are low risk for money laundering or that such reporting is redundant with information received by the IRS. Some focused on revocable trusts, particularly those used for estate planning, arguing that they are subject to a lower risk of money laundering and that requiring reporting on such trusts would be burdensome given how commonly they are used.

Other commenters suggested the exclusion of specialized types of trusts. Two suggested excluding transfers to a qualified personal residence trust and another suggested excluding transfers to an intentionally defective grantor trust, charitable remainder trust, any qualified terminal interest property trust benefitting the contributing homeowner, testamentary trust, third-party common law discretionary trust, a discretionary support trust, or a trust for the support of an incapacitated beneficiary, including supplemental or special needs trusts, arguing that these transfers generally do not involve property purchased in cash within the last year and are low risk for money laundering.

Final Rule. In the final rule, FinCEN retains the requirement to report transfers to transferee trusts and, in 31 CFR 1031.320(n)(11), adopts the definition of ''transferee trust'' as proposed with one technical edit to make certain language consistent across similar provisions in the rule. As discussed in Section II.A.2, FinCEN continues to believe that non-financed residential real estate transfers to certain trusts present a high risk for money laundering. FinCEN also believes that the potential difficulties described by commenters, such as the need to review complex trust documents to determine whether a trust is reportable, will be minimized by the addition of new exceptions and by the reasonable reliance standard adopted in the final rule which is discussed in Section III.B.4.

FinCEN considered comments suggesting that it adopt additional exceptions from the definition of a transferee trust for specific types of trusts. In particular, comments suggested exceptions for all living trusts, all revocable trusts, or all irrevocable trusts, as well as more specialized types of trusts such as qualified personal residence trusts or defective grantor trusts. FinCEN believes that the suggested exceptions would be overly broad and, as such, would exclude from reporting certain transfers that pose a high risk for illicit finance. However, depending on the particular facts and circumstances of a trust arrangement, some of the aforementioned trusts may be covered under the more tailored exception for ''no consideration transfers'' to trusts described in Section III.C.2.c. We also note that certain trusts, such as testamentary trusts, are not captured by the reporting requirement, as such trusts are created by wills and therefore fall within the exception for transfers occurring as a result of death.

3. 31 CFR 1031.320(c) Determination of Reporting Person

Proposed 31 CFR 1031.320(c) set forth a cascading reporting hierarchy to determine which person providing real estate closing and settlement services in the United States must file a report for a given reportable transfer. As an alternative, the persons described in the reporting cascade could enter into an agreement to designate a reporting person.

a. Reporting Cascade

Proposed Rule. Through the proposed reporting cascade, a real estate professional would be a reporting person required to file a report and keep records for a given transfer if the person performs a function described in the reporting cascade and no other person performs a function described higher in the reporting cascade. For example, if no person is involved in the transfer as described in the first tier of potential reporting persons, the reporting obligation would fall to the person involved in the transfer as described in the second tier of potential reporting persons, if any, and so on. The reporting cascade includes only persons engaged as a business in the provision of real estate closing and settlement services within the United States. The proposed reporting cascade was as follows: (1) the person listed as the closing or settlement agent on the closing or settlement statement for the transfer; (2) the person that prepares the closing or settlement statement for the transfer; (3) the person that files with the recordation office the deed or other instrument that transfers ownership of the residential real property; (4) the person that underwrites an owner's title insurance policy for the transferee with respect to the transferred residential real property, such as a title insurance company; (5) the person that disburses in any form, including from an escrow account, trust account, or lawyers' trust account, the greatest amount of funds in connection with the residential real property transfer; (6) the person that provides an evaluation of the status of the title; and finally (7) the person that prepares the deed or, if no deed is involved, any other legal instrument that transfers ownership of the residential real property.

Comments Received. Some commenters, including real estate agent associations and transparency organizations, supported the use of a reporting cascade, believing it to be functional and useful in preventing arbitrage, while one commenter specifically opposed it, arguing that the cascading approach would be burdensome. One industry group asked that FinCEN exclude banks and other financial institutions subject to AML/CFT program requirements as reporting persons, arguing that such financial institutions are already subject to a higher standard of BSA compliance. Some commenters variously opposed the inclusion of settlement and closing agents, title agents, or escrow agents as reporting persons because they felt it threatened their status as neutral third parties with limited responsibilities when facilitating a transfer of residential real property. Other commenters expressed concern that certain professionals in the reporting cascade would be ill-equipped to report.

Associations representing real estate agents agreed with the absence in the cascade of functions typically associated with real estate agents, while two escrow industry commenters proposed including real estate agents as reporting persons. One commenter suggested adding appraisers as reporting persons, arguing that required inclusion of appraisers would help to identify potential market distortion by illicit actors and that appraisers are otherwise well-equipped to be reporting persons. That commenter also suggested that FinCEN require appraisals be included in every non-financed transfer. One industry association urged FinCEN to exempt small businesses from reporting altogether. One commenter asked for a clear exclusion for homeowners associations, arguing that their burden would be high. A transparency organization and an industry commenter suggested that FinCEN explicitly prohibit transferees, transferors, and their owners from being reporting persons.

Some commenters argued that certain functions described in the proposed reporting cascade should be moved further up in the cascade to ensure parties with what they viewed as the best access to information are the first-line reporters. One commenter suggested that 31 CFR 1031.320(c)(1)(iii) be modified to include the person who prepares a stock certificate or a

proprietary lease to better cover potential reporting persons closing transfers of cooperative units, and another requested clarity as to who files deeds with the recording office.

Two commenters noted that the reporting cascade may result in more than one reporting person in split settlements, in which the buyer and seller use separate settlement agents. One of those commenters also suggested that certain scenarios could result in the identification of multiple reporting persons, such as when transfers are closed by independent escrow companies but also involve title insurance or when an attorney performs the document preparation, document signing, and disbursement of funds in a transfer that also involves title insurance. Finally, one commenter noted that, in some locations, it is possible for title insurance to be issued several months after closing.

Final Rule. FinCEN adopts the reporting cascade largely as proposed. The reporting cascade is designed to efficiently capture both sale and non-sale transfers, and FinCEN notes that the real estate industry already uses a similar reporting cascade to comply with requirements associated with IRS Form 1099–S.[39]

As set forth at 31 CFR 101.320(c)(3), FinCEN adopts the suggestion made by one commenter to exclude from the definition of a reporting person financial institutions with an obligation to maintain an AML program. Where a financial institution would have otherwise been a reporting person, the reporting obligation falls to the next available person described in the reporting cascade. The intent of this rulemaking is to address money laundering vulnerabilities in the U.S. real estate market, recognizing that most persons involved in real estate closings and settlements are not subject to AML program requirements. FinCEN considered imposing comprehensive AML obligations on such unregulated persons, but ultimately decided, as reflected in the final rule, to impose the narrower obligation of a streamlined SAR filing requirement. Financial institutions that already have an obligation to maintain AML programs, however, generally already have a SAR filing requirement that is more expansive than the streamlined reporting requirement adopted by this final rule. Therefore, FinCEN believes that it would not be appropriate at this time to add a streamlined reporting requirement to the existing obligations of a financial institution with an obligation to maintain an AML program. FinCEN also believes that the removal of financial institutions from the cascade of reporting persons will generally result in real estate reports simply being filed by others in the reporting cascade, not in those reports remaining unfiled.

FinCEN is not persuaded by commenters suggesting that other types of professionals should be added to or excluded from the cascade. Excluding categories of real estate professionals that execute functions listed in the reporting cascade based on their professional title or business size would result in a significant reporting loophole that illicit actors would exploit. FinCEN believes it is also unnecessary for the effectiveness of the reporting cascade to include additional functions, such as the provision of appraisal services or services that real estate agents typically provide to buyers and sellers. FinCEN believes that the reporting cascade, as adopted, will effectively capture high risk non-financed transfers of residential real estate and any additional functions would unnecessarily increase the complexity of the rule. Furthermore, real estate agents and appraisers usually perform their primary functions in advance of the actual closing or settlement and therefore generally do not perform a central role in the actual closing or settlement process, unlike real estate professionals performing the functions described in the reporting cascade. FinCEN believes that focusing the reporting cascade on functions more central to the actual closing or settlement is necessary to ensure the reporting person has adequate access to reportable information. Regarding homeowners associations, FinCEN believes that is not necessary to explicitly exempt them the definition of a reporting person because they do not traditionally play the roles enumerated in the reporting cascade.

FinCEN is also not persuaded by commenters' suggestion that the reporting obligation would affect or decrease the neutral position of settlement agents and escrow agents. These real estate professionals are ''neutral'' in that they have similar obligations to both the transferee and transferor and are therefore seen as an independent party acting only to facilitate the transfer, as opposed to a party acting primarily to advance the interests of just one of the parties to the transfer. The reporting obligation does not upset the balance between service to the transferee and transferor. It merely requires the professional to report additional information about the transfer.

FinCEN confirms that transferees, transferors, and their beneficial owners cannot be reporting persons unless they are engaged within the United States as a business in the provision of a real estate closing and settlement service listed in the reporting cascade, but declines to explicitly prohibit transferees, transferors, and their beneficial owners from being reporting persons when they do play these roles, as it would create an exploitable loophole in the reporting cascade, if such persons were the only real estate professionals involved in the transfer.

The final rule adopts clarifications proposed by commenters with respect to cooperatives. For cooperatives, the stock certificate is akin to a deed prepared for other types of residential real estate, and therefore FinCEN believes that it is appropriate to include these types of functions in the reporting cascade. However, FinCEN declines to modify the language for the person that files with the recordation office the deed or other instrument that transfers ownership of the residential real property, as requested by one commenter. FinCEN believes the proposed language clearly captures a person engaged as a business in the provision of real estate closing and settlement services that files the deed with the recordation officer. It would not include the individual clerk at the office who accepts the deed or other instrument.

In regard to concerns raised by a commenter about split settlements, the definition of ''closing or settlement statement'' found in 31 CFR 1031.320(n)(2) is modified in the final rule to make clarify that the closing or settlement statement is limited to the statement prepared for the transferee only. FinCEN does not agree that the other situations described by the commenter would result in multiple reporting persons being identified, given the inherent nature of the reporting cascade wherein the reporting responsibility flows down the cascade depending on the presence of a person performing each listed function.

The final rule does not adopt any changes to account specifically for title insurance purchased a significant period of time after a transfer of property. In those situations, FinCEN expects that the underwriting of title insurance would not be part of the closing or settlement process, and therefore another person in the reporting cascade would file the report. However, in the rare situation where there is no other person in the reporting

[39] *See* 29 CFR 1.6045–4 (Information reporting on real estate transactions with dates of closing on or after January 1, 1991).

cascade participating in the closing or settlement of a reportable transfer, the underwriter of title insurance may ultimately be required to file the report when the insurance is eventually purchased.

b. Designation Agreements

Proposed Rule. Proposed 31 CFR 1031.320(c)(3) set forth the option for persons in the reporting cascade to enter into an agreement deciding which person should be the reporting person with respect to the reportable transfer. For example, if a real estate professional involved in the transfer provides certain settlement services in the settlement process, as described in the first tier of the reporting cascade, that person may enter into a written designation agreement with a title insurance company underwriting the transfer as described in the second tier of the reporting cascade, through which the two parties agree that the title insurance company would be the designated reporting person with respect to that transfer. The person who would otherwise be the reporting person must be a party to the agreement; however, it is not necessary that all persons involved in the transfer who are described in the reporting cascade be parties to the agreement. The agreement must be in writing and contain specified information, with a separate agreement required for each reportable transfer.

Comments Received. Two business associations requested that the rule allow for what they described as ''blanket'' designation agreements. Such agreements would allow two or more persons described in the reporting cascade to designate a potential reporting person for a set period of time or a set number of transfers. For example, a commenter put forward the example of a title insurance company and a settlement company entering into an agreement wherein, for any transfer in which they are both involved, the title insurance company would be the designated reporting person. One of these commenters stated that blanket designation agreements would bring a type of certainty that is required for them to benefit from the costs savings provided by designation agreements. A third business association argued that designation agreements will not be effective, resulting in settlement companies being the primary reporting person. A fourth business association asked whether a third-party vendor could be a designated reporting person.

Final Rule. In the final rule, FinCEN adopts the allowance for designation agreements in 31 CFR 1031.320(c)(4) as proposed. Although FinCEN sees the potential benefits of blanket designation agreements, such agreements would undermine FinCEN's ability to enforce the rule, particularly when a Real Estate Report is not filed as required, and accordingly the final rule does not permit a blanket designation agreement in lieu of a separate designation agreement for each relevant transfer. A single transfer could be subject to multiple, potentially overlapping, blanket designation agreements between different parties. In such a situation, it would be difficult for FinCEN to determine which person had ultimate responsibility for filing the report, and even the persons described in the reporting cascade may not know who had filing responsibility. By comparison, a separate designation agreement for each transfer, describing the specific details of the transfer, makes that determination straightforward. The designation agreement is designed to provide an optional alternative to the reporting cascade that can be effectively and efficiently implemented by reporting persons if they choose. However, nothing in the final rule prohibits persons in the reporting cascade from having an understanding, in writing or otherwise, as to how they generally intend to comply with the rule, provided that they continue to effect designation agreements for applicable transfers.

The final rule also does not allow for third-party vendors who are not described in the reporting cascade to be designated as a reporting person, as such vendors are not financial institutions that can be regulated by FinCEN; a reporting person could outsource the preparation of the form to a third-party vendor, but the ultimate responsibility for the completion and filing of the report would lie with the reporting person.

4. 31 CFR 1031.320(d) Information Concerning the Reporting Person

Proposed Rule. Proposed 31 CFR 1031.320(d) set forth a requirement that reporting persons must report their full legal name and the category into which they fall in the reporting cascade, as well as the street address of their principal place of business in the United States.

Comments Received. FinCEN did not receive any comments on reportable information concerning the reporting person.

Final Rule. FinCEN is adopting 31 CFR 1031.320(d) as proposed.

5. 31 CFR 1031.320(e) Information Concerning the Transferee

a. General Information Concerning Transferee Entities

Proposed Rule. Proposed 31 CFR 1031.320(e)(1) set forth a requirement for the reporting of the name, address, and unique identifying number of a transferee entity, as well as similar identifying information for the beneficial owners of the transferee entity and the persons signing documents on behalf of the transferee entity.

Comments Received. One organization requested that the final rule collect legal entity identifiers (LEIs) for transferee entities. As described by the commenter, the LEI was developed by the International Organization for Standards and is ''the only global standard for legal entity identification.''

Final Rule. In the final rule, FinCEN adopts 31 CFR 1031.320(e)(1) as proposed. It does not incorporate the suggestion to require reporting of LEIs. For purpose of this reporting requirement, FinCEN believes that a TIN is preferable, as it is broadly utilized by law enforcement and may be easily connected to other BSA documents.

b. General Information Concerning Transferee Trusts

Proposed Rule. Proposed 31 CFR 1031.320(e)(2) set forth a requirement to report certain information about transferee trusts, including the name of the trust, the date the trust instrument was executed, the address of the place of administration, a unique identifying number, and whether the trust is revocable. Proposed 31 CFR 1031.320(e)(2) also required the reporting of information about each trustee that is an entity, including full legal name, trade name, current address, the name and address of the trust officer, and a unique identifying number. Furthermore, proposed 31 CFR 1031.320(e)(2) required the reporting of identifying information about the trust's beneficial owners and the individuals signing documents on behalf of the trust.

Comments Received. Two industry organizations and two other commenters associated with the title insurance industry argued that information reportable for trusts should align with that on trust certificates issued under State law. As described by one industry organization, ''[u]nder the Uniform Trust Act promulgated by the Uniform Law Commission and enacted in 35 states, a trustee is authorized to issue a certification of trust containing much of the information sought under

this proposed rule.'' Another commenter requested that the beneficial ownership information collected under this rule align more closely with that collected under the BOI Reporting Rule. One other commenter, a non-profit organization, requested that the final rule collect legal entity identifiers (LEIs) for transferee trusts, for the reason discussed in Section III.C.5.a above with respect to legal entities.

Final Rule. In the final rule, FinCEN adopts 31 CFR 1031.320(e)(2) largely as proposed. FinCEN is persuaded by the recommendation to align information collected about trust transferees more closely with what is available on trust certificates. While they vary by state, trust certificates generally contain much of a trust's basic identifying information, such as the name of the trust, the date the trust was entered into, the name and address of the trustee, and whether the trust is revocable. The final rule eliminates the proposal to report information identifying the trust officer or the address that is the trust's place of administration, as this information is not commonly found on trust certificates and FinCEN believes other information collected will be sufficient to support law enforcement investigations. However, reporting persons are still required to report some information that may not be available on trust certificates, such as the identifying information for the trustee, as this is basic information necessary to conclusively identify the trust and to effectively conduct investigations into illicit activity. FinCEN believes this information will be readily collected by reporting persons; for example, because trustees generally manage the assets of the trust, the trustee will likely be directly involved in the transfer of residential real property to the trust.

The final rule does not adopt the suggestion to completely align the collection of beneficial ownership information with that collected under the BOI Reporting Rule. While the two rules do align in the collection of the beneficial owner's name, date of birth, and address, they differ in two key respects: first, regarding the unique identifying number, the real estate rule relies largely on TINs instead of passport numbers; and second, the real estate rule collects citizenship information, while the BOI Reporting Rule does not. As discussed in Section III.B.6, TINs are a key piece of identifying information for purposes of the database that would hold Real Estate Reports, and other BSA reports typically require TINs for this reason. Furthermore, FinCEN believes that the collection of citizenship information is necessary in this context to better analyze the volume of illicit funds entering the United States via entities or trusts beneficially owned by non-U.S. persons and is a key element for ensuring that the implementation of this rule will enhance and protect U.S. national security. FinCEN notes that such citizenship information, along with TINs, are reported on traditional SARs. Finally, the rule does not incorporate the suggestion to require reporting of LEIs, for the reasons discussed in Section III.C.2.d with respect to information collected for transferee entities.

c. Beneficial Ownership Information of Transferee Entities and Trusts

Proposed Rule. Proposed 31 CFR 1031.320(e) set forth requirements to report certain beneficial ownership information with respect to transferee entities and transferee trusts. Proposed 31 CFR 1031.320(j)(1)(i) largely defined beneficial owners of transferee entities through a reference to regulations in the BOI Reporting Rule, specifically 31 CFR 1010.380(d). Similarly, proposed 31 CFR 1031.320(j)(1)(ii) established a definition for the beneficial owners of transferee trusts by leveraging concepts from the BOI Reporting Rule. For both transferee entities and transferee trusts, the proposed regulation set forth that the determination of beneficial ownership would be as of the date of closing. The proposed rule did not require reporting persons to determine whether an individual was a beneficial owner, allowing them instead to use a certification form described in 31 CFR 1031.320(e)(3) to collect beneficial ownership information directly from a transferee trust or a person representing a trust in the reportable transfer, as discussed further in Section III.B.4.

Comments Received. Three commenters expressed support for the collection of beneficial ownership information on the Real Estate Report, with one transparency organization specifically supporting the proposed rule's adoption of definitions from the BOI Reporting Rule. This commenter noted that the proposal would minimize confusion, promote consistency, and maximize the ability to cross-reference data. Multiple commenters, however, argued that the collection of beneficial ownership information under the proposed rule is unnecessary due to the collection of similar information under the BOI Reporting Rule. Some of these commenters also argued that, if beneficial ownership information is collected, it should be limited to the reporting of a FinCEN Identifier, which is an identification number that reporting entities and their beneficial owners may use to report beneficial ownership information under the BOI Reporting Rule. An industry group representing trust and estate lawyers argued that the definition of a beneficial owner of a transferee trust should be limited to trustees, rather than also including grantors/settlors and beneficiaries.

One commenter requested that the final rule retain the exception from beneficial ownership information reporting found in 31 CFR 1010.380(d)(3)(ii) for nominees, intermediaries, custodians, and agents, while two other commenters requested that the rule should except reporting where a beneficial owner is a minor.

Final Rule. The final rule retains the requirement to provide beneficial ownership information in the report, as proposed, with one technical edit to correct a cross reference. FinCEN agrees that the Real Estate Report will contain some information that is also reported under the BOI Reporting Rule. However, because these two distinct reports would be filed on different facets of a single legal entity's activities, FinCEN believes it is appropriate for some of the same information to be reported on both forms. As FinCEN explained in the NPRM, the beneficial ownership information report (BOIR) and the report required by this rule serve different purposes.

The information reported on a BOIR informs FinCEN about the reporting companies that have been formed or registered in the United States, while Real Estate Reports will inform FinCEN about the legal entities, some of which may be ''reporting companies'' within the meaning of the BOI Reporting Rule, that have participated in reportable real estate transfers that Treasury believes to be at high risk for money laundering. Real Estate Reports, by including beneficial ownership information and real estate transfer information in a single report, will enable law enforcement to investigate potential criminal activity in a timely and efficient manner, and will allow Treasury and law enforcement to connect money laundering through real estate with other types of illicit activities and to conduct broad money laundering trend analyses. BOIRs are kept secure but are intended to be made available not only to government agencies but to financial institutions for certain compliance purposes. Real Estate Reports will be subject to all of the protections and limitations on access and use that already apply to SARs.

The need for two different types of report, of course, does not mean that FinCEN is not concerned about eliminating unnecessary duplication of effort. FinCEN appreciates the suggestion that reporting persons be allowed to submit FinCEN Identifiers in lieu of collecting and submitting beneficial ownership information for legal entities that are considered reporting companies under the BOI Reporting Rule. However, FinCEN has identified a number of legal and operational limitations that would prevent FinCEN from accepting FinCEN identifiers outside of the CTA context.[40] For instance, information provided to FinCEN under the CTA, including the information provided in order to obtain FinCEN identifiers, is housed in an information technology system kept separate from other Bank Secrecy Act reports. The CTA imposes strict limits on access to that system, and those statutory limits are reflected in implementing regulations and the relevant Privacy Act System of Records Notice.[41] There is no reason to think that persons entitled to access to CTA information will routinely also be entitled to access to SARs and other BSA reports, or vice versa. Thus, at this time, allowing FinCEN identifiers to be reported in lieu of the underlying information would limit the usefulness of Real Estate Reports to law enforcement. As discussed in Section II.A.2 in the context of cross-referencing data from Residential Real Estate GTOs with SARs, the ability to link non-financed transfers of residential real property with other BSA reports is of significant value to law enforcement. Thus, FinCEN has not adopted this suggestion in the final rule.

With regard to the comments suggesting a more limited definition of a beneficial owner, FinCEN does not adopt the suggestion that beneficial owners of trusts be limited to trustees. The final rule instead adopts the approach in the proposed rule, which set forth several positions in a transferee trust that FinCEN considers to be occupied by the beneficial owners of the trust, including: the trustee; an individual other than a trustee with the authority to dispose of transferee trust assets; a beneficiary that is the sole permissible recipient of income and principal from the transferee trust or that has the right to demand a distribution of, or withdraw, substantially all of the assets from the transferee trust; a grantor or settlor who has the right to revoke the transferee trust or otherwise withdraw the assets of the transferee trust; and the beneficial owner(s) of any legal entity that holds at least one of these positions. The persons holding these positions have clear ownership or control over trust assets and therefore should be reported as beneficial owners of the trust.

For legal entities, 31 CFR 1031.320(n)(1)(i) continues to reference 31 CFR 1010.380(d) and therefore the final rule incorporates exceptions from the definition of beneficial owner of a reporting company; these exceptions include nominees, intermediaries, custodians, and agents, as well as minor children (when certain other information is reported). For transferee trusts, the definition of beneficial owner in 31 CFR 1031.320(n)(1)(ii) does not contain exceptions mirroring those found in the definition of a beneficial owner of a transferee entity. FinCEN considered adding an exception for minor children as suggested by commenters but believes at this time that such an exception is not appropriate for trusts. Trusts, unlike legal entities, are largely designed to transfer assets to family members such as minor children, and therefore the reporting of minor children will accurately reflect the nature of the trust and, in aggregate, will allow FinCEN to more accurately determine the risks related to trusts. FinCEN notes, however, that the definition of beneficial owner is unlikely to result in significant reporting of minor children, as minor children would fall into only one category of beneficial owner—as the beneficiary of the transferee trust, and only when the minor child is the beneficiary who is the sole permissible recipient of income and principal from the transferee trust.

6. 31 CFR 1031.320(f) Information Concerning the Transferor

Proposed Rule. Proposed 31 CFR 1031.320(f) required the reporting person to report information relevant to identifying the transferor, such as the transferor's name, address, and identifying number. If the transferor is a trust, similar information would be reported identifying the trustee.

Comments Received. One think tank supported the collection of information on transferors, while three industry organizations opposed it, arguing that such information is unnecessary for law enforcement and is redundant with other information available to law enforcement through public land records, BOI reports filed under the CTA, or IRS Form 1099–S.

Final Rule. In the final rule, FinCEN adopts 31 CFR 1031.320(f) as proposed. Information identifying the transferor is necessary to identify certain money laundering typologies, such as where the transferor and transferee are related parties mispricing the real estate in order to transfer value from one to the other. There is therefore a significant benefit to having the transferor's information on the same report as the transferee's information. The transferor's information is basic information about the transferor and does not include information that may be more difficult to gather, such as beneficial ownership information. There is a significant value in adding transferor information in the same report as transferee information and in the same database as information from other BSA reports. FinCEN has addressed the suggestion that similar information is available through reports filed under the BOI Reporting Rule or IRS Form 1099–S in Section III.B.2.

7. 31 CFR 1031.320(g) Information Concerning the Residential Real Property

Proposed Rule. Proposed 1031.320(g) required the reporting person to report the street address, if any, and the legal description (such as the section, lot, and block) of each residential real property that is the subject of a reportable transfer.

Comments Received. FinCEN did not receive any comments related to the reporting of information concerning residential real property.

Final Rule. FinCEN adopts 31 CFR 1031.320(g) with technical edits that are meant to lay out the requirements more clearly, and a modification to the text to require the reporting of the date of closing. The NPRM requested comments as to whether the proposed information reported regarding the description of the transferred residential real property was sufficient. Although FinCEN received no comments regarding the reporting of date of closing, FinCEN has subsequently determined that such information is necessary for it to confirm whether reporting persons are complying with the final rule. The term ''date of closing'' was defined in the NPRM (and is adopted in the final rule) to mean the date on which the transferee entity or transferee trust receives an ownership interest in the residential real property. As proposed in the NPRM and adopted in the final rule, reporting persons have to ascertain the date of closing to make key determinations, such as the filing

[40] *See* FinCEN, ''Beneficial Ownership Information Access and Safeguards,'' 88 FR 88732 (Dec. 22, 2023).

[41] FinCEN, ''Notice of a New System of Records,'' 88 FR 62889 (Sept. 13, 2023).

deadline, discussed in Section III.C.11, and whether an individual is a beneficial owner, discussed in Section III.C.5.c. Because the date of closing is information that a reporting person must obtain to comply with the final rule and, relatedly, is information FinCEN also must receive to enforce compliance with the rule, the reporting of such information is a logical outgrowth of the NPRM. The parties to the transfer will know the date of closing and be able to report that date easily on the Real Estate Report.

8. 31 CFR 1031.320(h) Information Concerning Payments

Proposed Rule. Proposed 31 CFR 1031.320(h) set forth a requirement that reporting persons report detailed information about the consideration, if any, paid in relation to any reportable transfer. This would include total consideration paid for the property, the amount of each separate payment made by or on behalf of the transferee entity or transferee trust, the method of such payment, the name of and account number with the financial institution originating the payment, and the name of the payor.

Comments Received. Several commenters argued that reporting persons would not have ready access to the proposed information to be collected about payments. An industry group, for example, stated that state-level ''good funds'' laws limit settlement agents to accepting fully and irrevocably settled and collected funds, meaning typically wire payments and cashier's checks, which would not contain information such as the originator's full account number. A business clarified that, for wire payments, a settlement company would only see: the date on which the wire transfer was received; the amount of the wire transfer; the name on the originator's account; the routing number for the sending bank; the name of the bank used by the beneficiary; the beneficiary's account number; the beneficiary's name and address; and wire information providing a reference number relevant to escrow. Some commenters also argued that the originating financial institution would be unlikely to provide the relevant information; that the person holding the originating account, such as an escrow company or attorney, would similarly be unlikely to provide the relevant information; or that transferees may refuse to provide information, believing the reporting of account numbers would put them at risk.

To remedy these issues, commenters argued that payment information should instead be limited to either the total consideration or to the information readily available on wire instructions or a check. Some commenters suggested eliminating the reporting of payment information entirely, questioning the usefulness of reporting such information given that covered financial institutions are likely involved in the processing of such payments and that the reporting person may be separately required to report payment information on a Form 8300, and also raising concerns about the potential increased risk of fraud if detailed account information is required to be reported.

Final Rule. In the final rule, FinCEN adopts 31 CFR 1031.320(h) largely as proposed, with edits to clarify the reporting of the total consideration paid. FinCEN acknowledges that the information required may be beyond what is normally available to the reporting person, but nevertheless believes that the information can be readily collected from the transferee. FinCEN expects that the adoption of the reasonable reliance standard in this rule will help relieve concerns articulated by commenters about the burden of verifying payment information or their ability to collect such information. FinCEN also notes that filers of IRS Form 1099–S must report the account numbers of transferors and therefore believes these to be accessible to reporting persons, many of whom file such forms.

FinCEN appreciates commenters' concerns about potential risks associated with collecting and retaining detailed payment information in relation to reportable transfers and believes that the removal of the requirement to retain Real Estate Reports, in which personal information would be aggregated, for five years, as discussed in Section III.C.12, will help mitigate this risk.

9. 31 CFR 1031.320(i) Information Concerning Hard Money, Private, and Similar Loans

Proposed Rule. Proposed 31 CFR 1031.320(i) set forth the requirement that reporting persons report whether the transfer involved an extension of credit from any institution or individual that does not have AML program obligations.

Comments Received. FinCEN did not receive any comments about the reporting of information concerning hard money, private, and similar loans.

Final Rule. In the final rule, FinCEN adopts 31 CFR 1031.320(i) as proposed. FinCEN believes this information will be valuable to understanding the risks presented by private lenders. FinCEN notes that, as discussed in Section III.C.2.b covering the definition of a non-financed transfer, reporting persons may rely on information from the lender as to whether the lender has an AML program obligation.

10. 31 CFR 1031.320(j) Reasonable Reliance

The final rule adopts a reasonable reliance standard, set forth in 31 CFR 1031.320(j), that generally allows reporting persons, whether when reporting information required by the final rule or when necessary to make a determination to comply with the rule, to reasonably rely on information provided by other persons. This change from the proposed rule is explained in detail in Section III.B.4.

11. 31 CFR 1031.320(k) Filing Procedures

Proposed Rule. Proposed 31 CFR 1031.320(k) set forth a requirement that reporting persons file a Real Estate Report with FinCEN no later than 30 calendar days after the date of a given closing.

Comments Received. One transparency organization supported the 30-day filing period, arguing that 30 days is both reasonable and necessary to ensure that current and useful information is available to law enforcement soon after a reportable transfer takes place. Two other commenters, however, argued that a 30-day window would be too short a timeframe in which to gather the required information and that it would be burdensome to monitor differing filing dates for each reportable transfer. As an alternative, these commenters proposed an annual filing deadline, akin to IRS Form 1099–S, with another suggesting that a quarterly filing deadline would also be an improvement.

Final Rule. In the final rule, FinCEN adopts, in 31 CFR 1031.320(k)(3), a reporting deadline of the final day of the following month after which a closing took place, or 30 days after the date of the closing, whichever is later. FinCEN believes that this approach will reduce date tracking burdens for industry and may further reduce the logistical burden of compliance by providing a longer period of time in which to gather the reportable information, while still providing timely information to law enforcement. FinCEN recognizes that Real Estate Reports are unique when compared with other BSA reports and therefore necessitate a unique reporting deadline. Real Estate Reports require more information than forms such as a CTR or Form 8300—both required to be filed within 15 days of a transaction—

and the information may need to be gathered from a variety of sources, and not just from the single individual conducting the transaction. Relatedly, traditional SARs, which must be filed within 30 days after suspicious activity is detected, also frequently rely on information known to the filer and, critically, are filed by financial institutions required to have AML programs. FinCEN believes the final filing date will benefit both reporting persons and law enforcement by ensuring reporting persons have sufficient time to gather information, resulting in more complete and accurate reports.

FinCEN believes that a filing period longer than adopted here would adversely impact the utility of the reports for law enforcement and that the extended filing period adopted in this final rule strikes the appropriate balance between accommodating commenters' concerns and ensuring timely reporting of transfers, particularly given other modifications and clarifications in this rule. In particular, FinCEN believes that the adoption of the reasonable reliance standard will significantly reduce the time needed to file the form compared to verifying the accuracy of each piece of information. FinCEN therefore declines to adopt the longer quarterly or annual suggested filing periods.

The final rule deletes as unnecessary the reference in proposed 31 CFR 1031.320(k) to the collection and maintenance of supporting documentation. In contrast with a traditional SAR requirement, the requirement to file a Real Estate Report does not require the reporting person to maintain records documenting the reasons for filing, and therefore there is no need to consider such documentation to have been deemed filed with the Real Estate Report, or to reference such documentation when discussing what a reporting person should file.

12. 31 CFR 1031.320(l) Retention of Records

Proposed Rule. Proposed 31 CFR 1031.320(l) set forth a requirement that reporting persons maintain a copy of any Real Estate Report filed and a copy of any beneficial ownership certification form provided to them for five years. It also proposed that all parties to any designation agreement maintain a copy of the agreement for five years.

Comments Received. Several commenters stated that retaining records for five years represents an ongoing data storage cost and increases concerns about data security. Two commenters expressed concern that collecting and retaining the information that reporting persons would need to FinCEN to report would run counter to the principles that underly certain State laws that the comments stated were designed to protect data privacy. One commenter argued that there were Fourth Amendment implications for the records retention requirement, which they viewed as requiring businesses to maintain records and produce them to law enforcement on demand. However, a transparency organization supported the proposed five-year recordkeeping requirement, noting also that FinCEN would need access to the designation agreement to determine who had responsibility for filing the report in a particular transfer.

Final Rule. The final rule retains the requirement that certain records be kept for five years but limits the requirement to a copy of any beneficial ownership certification form that was provided to the reporting person, as well as a copy of any designation agreement. As amended, the rule does not require reporting persons to retain a copy of a Real Estate Report that was submitted to FinCEN. FinCEN believes that eliminating the requirement to retain a Real Estate Report may reduce concerns related to data security and to costs associated with the retention of records. FinCEN also notes, more generally, that the BSA reporting framework has long been held to be consistent with the Fourth Amendment of the U.S. Constitution.[42]

While FinCEN considered eliminating the record retention requirement in its entirety, it believes that it is necessary to the enforceability of the rule that reporting persons retain copies of documents that will not be filed with FinCEN—namely, a copy of any beneficial ownership information certification form and any designation agreement to which a reporting person is a party. Furthermore, FinCEN has retained the requirement in the proposed rule that all parties to a designation agreement—not just the reporting person—must retain a copy of such designation agreement, also to ensure enforceability of the rule. As previously stated, records that are required to be retained must be maintained for a period of five years.

13. 31 CFR 1031.320(m) Exemptions

Proposed Rule. Proposed 31 CFR 1031.320(m)(1) exempted reporting persons, and any director, officer, employee, or agent of such persons, and Federal, State, local or Tribal government authorities, from the confidentiality provision in 31 U.S.C. 5318(g)(2) that prohibits the disclosure to any person involved in a suspicious transaction that the transaction has been reported or any information that would otherwise reveal that the transaction has been reported.

Proposed 31 CFR 1031.320(m)(2) confirmed that the exemption from the requirement to establish an AML program, in accordance with 31 CFR 1010.205(b)(1)(v), would continue to apply to those businesses that may be reporting persons under the final rule. It also stated that no such exemption applies for a financial institution that is otherwise required to establish an anti-money laundering program, as provided in 31 CFR 1010.205(c).

Comments Received. FinCEN received one comment by 25 Attorneys General that supported the exemption of Federal, State, local, or Tribal government authorities from the confidentiality provision. Additionally, one industry association supported the proposed rule's exemption for reporting persons from establishing an AML program.

Final Rule. In the final rule, FinCEN adopts 31 CFR 1031.320(m) largely as proposed, with one minor deletion for consistency. As in the NPRM, FinCEN recognizes that the confidentiality provision in 31 U.S.C. 5318(g)(2) applying to financial institutions that file SARs is not feasible with the Real Estate Report, as reporting persons needs to collect information directly from the subjects of the Report, thus revealing its existence. Moreover, all parties to a non-financed residential real estate transfer subject to this rule would already be aware that a report would be filed, given such filing is non-discretionary, rendering confidentiality unnecessary. The final rule maintains the exemption from the requirement for reporting persons to establish an AML program. However, given the change discussed earlier explicitly excluding financial institutions with AML program obligations from the definition of a reporting person, the sentence referring to such financial institutions has been deleted.

14. 31 CFR 1031.320(n) Definitions

Proposed Rule. The proposed rule set forth several definitions in 31 CFR 1031.320(j) for key concepts, such as ''transferee entity,'' ''transferee trust,'' and the beneficial owners of these aforementioned entities.

Comments Received. FinCEN received comments related to the definition of ''Beneficial owner,'' discussed above in Section III.C.5.c; ''Residential real property,'' discussed above in Section

[42] *U.S.* v. *Miller,* 425 U.S. 435 (1976).

III.C.2.a; ''Transferee entity,'' discussed above in Section III.C.2.d; and ''Transferee trust,'' discussed above in Section III.C.2.e. FinCEN did not receive comments on other proposed definitions.

Final Rule. For clarity, in the final rule, FinCEN moves the paragraph containing definitions to the end of the regulations, so that they appear at 31 CFR 1031.320(n). In addition to modifications and clarifications discussed in the sections referenced above, the rule adopts the following modifications:

- The definition of ''closing or settlement statement'' is limited to the statement prepared for the transferee, as discussed in Section III.C.3.a;
- The rule adds a definition for ''Non-financed transfer'' for clarity, as discussed in Section III.C.2.b;
- The rule is meant to be applied nationwide, and therefore the definition of ''Recordation office'' is modified to make clear that the recordation office may be located in a territory or possession of the United States, and is not limited to State, local, or Tribal offices for the recording of reportable transfers as a matter of public record. As a result, a person may be a reporting person if they file a deed or other instrument that transfers ownership of the residential real property with a recordation office located in any state, local jurisdiction, territory of possession of the United States, or Tribe;
- For clarity, the term ''Residential real property'' is removed from the list of definitions found in 31 CFR 1031.320(n) and is instead defined in 31 CFR 1031.320(b).

The remaining definitions are adopted as proposed.

IV. Effective Date

Proposed Rule. The NPRM proposed that the final rule would be effective one year after the final rule is published in the **Federal Register**.

Comments Received. Several industry commenters agreed that a one-year delayed effective date is necessary to implement the requirements, with some indicating that one year, at a minimum, would be feasible. One commenter suggested that the final rule be implemented in phases to allow industry time to adapt to the regulation.

Final Rule. The final rule provides for an effective date of December 1, 2025, at which point reporting persons will be required to comply with all of the rule's requirements, chief among them the requirement to file Real Estate Reports with FinCEN. FinCEN believes that this effective date, which delays the effective date by slightly more than the one-year that industry commenters generally supported at a minimum, will provide additional opportunity for potential reporting persons to understand the requirements of the rule and put appropriate compliance measures into place. Furthermore, this effective date will provide FinCEN with the additional time necessary to issue the Real Estate Report, including the completion of any process required by the Paperwork Reduction Act (PRA).

However, FinCEN declines to adopt a phased approach to implementation of the rule, such as by initially limiting the reporting obligation to persons performing a limited number of functions described in the reporting cascade or phasing-in the rule geographically. FinCEN believes a phased approach would likely create unneeded complexity for industry, as industry would need to adapt processes and procedures multiple times over the implementation period. A phased implementation would also undermine the effectiveness of the rule for an extended period of time. The rule is intended to provide comprehensive reporting for a subset of high-risk residential real estate transfers; phased implementation may enable avoidance of reporting requirements by illicit actors, replicating some of the issues FinCEN has encountered under the Residential Real Estate GTOs.

V. Severability

If any of the provisions of this rule, or the application thereof to any person or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

Indeed, the provisions of this rule can function sensibly if any specific provision or application is invalidated, enjoined or stayed. For example, if a court were to hold as invalid the application of the rule with respect to any category of potential reporting persons, FinCEN would preserve the reporting cascade approach for all other persons that perform the functions set out in the cascade. In such an instance, the provisions of the rule should remain in effect, as those provisions could function sensibly with respect to other potential reporting persons. Likewise, if a court were to hold invalid the application of the rule to any category of residential real property, as defined, the other categories should still remain covered. Because these categories operate independently from each other, the remainder of the rule's provisions could continue to function sensibly: a reportable transfer would continue to be a non-financed transfer of any ownership interest in the remaining categories of residential real property when transferred to a transferee entity or transferee trust. Similarly, with respect to transferee entities and transferee trusts, if a court were to enjoin FinCEN from enforcing the rule's reporting requirements as applied to, for example, transferee trusts, the reporting of transfers to transferee entities should continue because the two types of transferees are separate and distinct from one another. Thus, even if the transferee trust provisions were severed from the rule, the remaining portions of the rule could still function sensibly. In sum, in the event that any of the provisions of this rule, or the application thereof to any person or circumstance, is held to be invalid, FinCEN has crafted this rule with the intention to preserve its provisions to the fullest extent possible and any adverse holding should not affect other provisions.

VI. Regulatory Analysis

This regulatory impact analysis (RIA) evaluates the anticipated effects of the final rule in terms of its expected costs and benefits to affected parties, among other economic considerations, as required by EOs 12866, 13563, and 14094. This RIA also affirms FinCEN's original assessments of the potential economic impact on small entities pursuant to the Regulatory Flexibility Act (RFA) and presents the expected reporting and recordkeeping burdens under the Paperwork Reduction Act of 1995 (PRA). Furthermore, it sets out the analysis required under the Unfunded Mandates Reform Act of 1995 (UMRA).

As discussed in greater detail below, the rule is expected to promote national security objectives and enhance compliance with international standards by improving law enforcement's ability to identify the natural persons associated with transfers of residential real property conducted in the U.S. residential real estate sector, and thereby diminish the ability of corrupt and other illicit actors to launder their proceeds through real estate purchases in the United States. More specifically, the collection of the transfer-specific SARs—Real Estate Reports—in a repository that is readily accessible to law enforcement and that contains other BSA reports is expected to increase the efficiency with which resources can be utilized to identify such natural persons, or beneficial owners, when they have conducted non-financed purchases of residential real

property using legal entities or trusts, and to cross-reference those beneficial owners and their legal entity or trust against other reported financial activities in the system.

This RIA first describes the economic analysis FinCEN undertook to inform its expectations of the rule's impact and burden. That is followed by certain pieces of additional and, in some cases, more specifically tailored analysis as required by EOs 12866, 13563, and 14094, the RFA, the UMRA, and the PRA, respectively. Responses to public comments related to the RIA—regarding specific findings, assumptions, or expectations, or with respect to the analysis in its entirety—can be found in Sections VI.A.1.b and VI.C and have been previewed and cross-referenced throughout the RIA.

A. Assessment of Impact

This final rule has been determined to be a ''significant regulatory action'' under Section 3(f) of E.O. 12866 as amended by 14094. The following assessment indicates that the rule may also be considered significant under Section 3(f)(1), as the rule is expected to have an annual effect on the economy of $200 million or more.[43] Consistent with certain identified best practices in regulatory analysis, the economic analysis conducted in this section begins with a review of FinCEN's broad economic considerations,[44] identifying the relevant market failures (or fundamental economic problems) that demonstrate the need or otherwise animate the impetus for the policy intervention.[45] Next, the analysis turns to details of the current regulatory requirements and the background of market practices against which the rule will introduce changes (including incremental costs) and establishes FinCEN's estimates of the number of entities and residential real property transfers it anticipates to be affected in a given year.[46] The analysis then briefly reviews the final rule with a focus on the specifically relevant elements of the definitions and requirements that most directly inform how FinCEN contemplates compliance would be operationalized.[47] Next, the analysis proceeds to outline the estimated costs to the respective affected parties that would be associated with such operationalization.[48] Finally, the analysis concludes with a brief discussion of the regulatory alternatives FinCEN considered in the NPRM, including a discussion of the public comments received in response.[49] Throughout the analysis, FinCEN has attempted to incorporate public comments received in response to the NPRM where most relevant. Certain broad commentary themes that are pertinent to the RIA as a whole are addressed specifically in Sections VI.A.1.b and VI.C below, while the remainder are integrated into the general discussion throughout the rest of the analysis.

1. Economic Considerations

a. Broad Economic Considerations

As FinCEN articulated in the RIA of the NPRM, two problematic phenomena animate this rulemaking.[50] The first is the use of the United States' residential real estate market to facilitate money laundering and illicit activity. The second, and related, phenomenon is the difficulty of determining who beneficially owns legal entities or trusts that may engage in non-financed transfers of residential real estate, either because this data is not available to law enforcement or access is not sufficiently centralized to be meaningfully usable for purposes of market level risk-monitoring or swift investigation and prosecution. The second phenomenon contributes to the first, making money laundering and illicit activity through residential real property more difficult to detect and prosecute, and thus can reduce the appropriate disciplinary and deterrent effects of law enforcement. FinCEN therefore expects that the reporting of non-financed residential real estate transfers required by this rule would generate benefits by mitigating those two phenomena. In other words, FinCEN expects that benefits would flow from the rule's ability to make law enforcement investigations of illicit activity and money laundering through residential real estate less costly and more effective, and it would thereby generate value by reducing the social costs associated with related illicit activity to the extent that it is more effectively disciplined or deterred.

b. Consideration of Comments Received

In completing the analysis to accompany the final rule, FinCEN took all submitted public comments to the NPRM into consideration. While the NPRM received over six hundred comment letters, fewer than 25 percent of those comments presented non-duplicate content and a smaller fraction still provided comment specifically with respect to the NPRM RIA. The proportion of comment letters with non-duplicate content represents highly geographically concentrated and geographically unique feedback, which may therefore limit the generalizability of those responses regarding baseline and burden-related elements to other regions of the country and other local real estate markets that do not face the same general housing market trends or state-specific legal constraints. Where FinCEN has declined to revise its original analysis in response to certain comments, an attempt has been made to provide greater clarification of the reasons underlying FinCEN's original methodological choices and expectations.

i. Comments Pertaining to Burden Estimates

Numerous comment letters spoke to the anticipated burden of the rule, though there was substantial variation in parties' expectations about which participant in a reportable transfer would ultimately bear the financial costs. Some commenters expressed concern that, if required to serve as the reporting person, they would not be able to absorb the related costs. The majority of these commenters, however, did not offer any explanation for why they would therefore not opt to designate to another cascade member, though presumably the assumption may have been that no other cascade member might be willing to agree. This assumption may or may not be consistent with countervailing incentives other cascade members face in facilitating reportable transfers. Other commenters suggested that certain reporting persons might be forced to absorb a large proportion of the rule's costs due simply to their considerable market share in their particular industry. Additionally, a substantial fraction of those who commented on the burden of the rule signaled their expectation that to some degree the financial costs would ultimately be passed along to the transferee, the transferee's tenants, or to all housing market clients served by that potential reporting person.

For purposes of the economic analysis, FinCEN notes that there may be a meaningful distinction between the concept of being burdened, or affected, by the rule and bearing the cost of the

[43] E.O. 12866, 58 FR 51735 (Oct. 4, 1993), section 3(f)(1); E.O. 14094, 88 FR 21879 (Apr. 11, 2023), section 1(b).

[44] *See* Section VI.A.1.

[45] Broadly, the anticipated economic value of a rule can be measured by the extent to which it might reasonably be expected to resolve or mitigate the economic problems identified by such review.

[46] *See* Section VI.A.2.

[47] *See* Section VI.A.3.

[48] *See* Section VI.A.4.

[49] *See* Section VI.A.5.

[50] *See* FinCEN, NPRM, ''Anti-Money Laundering Regulations for Residential Real Estate Transfers,'' 89 FR 12424 (Feb. 16, 2024).

rule. A party may be the primary affected business in terms of needing to undertake the most new burden or incremental, novel activity to comply with the rule, but to the extent that that work is compensated, that party, for purposes of the RIA is not considered to also bear the cost of the rule. The comments FinCEN received in response to the NPRM suggest that there may be considerable variation across states in the distinction between where businesses may be primary affected businesses only and where businesses may be both those primarily affected and those that bear the majority of the rule's costs.

Separately, FinCEN notes that while the vast majority of comment letters spoke to at least one element of burden as a concern, very few provided competing estimates or alternative methods to quantify the expected burden of the proposed rule in its entirety. Many commenters, in fact, took FinCEN estimates as given when making their own arguments, suggesting that at least on some level, they found the estimates reasonably credible. In cases where commenters most strongly disagreed with the magnitude of FinCEN estimates (suggesting that FinCEN vastly underestimated the burden of the rule), it is unclear whether the same differences would persist in light of the clarifications and modifications to the proposed rule that have been made in the process of finalization. Given the divergence between what some commenters originally interpreted the rule to require of them and what the final rule would entail, a number of those concerns—including concerns related to the expected verification of information that are addressed by the reasonable reliance standard adopted in the final rule—may now be less pressing.

The primary revision that FinCEN has made to the RIA in response to commenters is with respect to wage estimates for the industry categories represented in the reporting cascade. In addition to updating wages to incorporate the BLS's most recent annual figures, FinCEN also elected to incorporate the 90th percentile wage values instead of the national average index values used in the NPRM RIA. This more conservative approach is meant to address certain commenter concerns that FinCEN's expected costs might underestimate the market wage rates reporting persons would need to pay, particularly because more reporting might occur in geographic areas where skilled labor commands higher compensation. Adopting this more conservative, higher wage rate approach does not reflect any change in FinCEN's expectations about the underlying burden of compliance with the rule.

ii. Comments Suggesting Additional Analysis

A few comment letters suggested that FinCEN's analysis may have benefited from additional research activities, robustness tables, or analyses of distributional effects. While in principle FinCEN does not object to more, and more empirically robust, quantitative analysis of any of its policies, it is nevertheless unpersuaded that the analyses requested would have changed the conclusions those additional analytical activities would have informed. In none of the enumerated requests for additional analysis did the commenter convincingly substantiate how the findings of their requested items might have actionably changed the contours of the final policy without impairing its expected efficacy.

2. Baseline and Affected Parties

To assess the anticipated regulatory impact of the rule, FinCEN took several factors about the current state of the residential real estate market into consideration. This is consistent with established best practices and certain requirements [51] that the expected economic effects of a rule be measured against the status quo as a primary counterfactual. Among other factors, FinCEN's economic analysis of regulatory impact considered the rule in the context of existing regulatory requirements, relevant distinctive features of groups likely to be affected by the rule, and pertinent elements of current residential real estate market characteristics and common practices. Each of these elements, including additional details and clarifications responsive to comments received, is discussed in its respective subsection below.

a. Regulatory Baseline

While there are no specific Federal rules that would directly and fully duplicate, overlap, or conflict with the rule, there are nevertheless components of the rule that mirror, or are otherwise consistent with, reporting and procedural requirements of existing FinCEN rules and orders, as well as those of other agencies. To the extent that a person would have previous compliance experience with these elements of the regulatory baseline, FinCEN expects that some costs associated with the rule would be lower because the incremental changes in behavior from current practices would be smaller. FinCEN reviews the most proximate components from these existing rules and orders in greater detail below.

i. Residential Real Estate GTOs

Under the Residential Real Estate GTOs, covered title insurance companies are required to report: ''(i) The dollar amount of the transaction; (ii) the type of transaction; (iii) information identifying a party to the transaction, such as name, address, date of birth, and tax identification number; (iv) the role of a party in the transaction (*i.e.,* originator or beneficiary); and (v) the name, address, and contact information for the domestic financial institution or nonfinancial trade or business.''

As discussed above, FinCEN recognizes that the Residential Real Estate GTOs collect beneficial ownership information for certain non-financed purchases of residential real property by legal entities that meet or exceed certain dollar thresholds in select geographic areas. However, the Residential Real Estate GTOs are narrow in that they are temporary, location-specific, and limited in the transactions they cover. The rule is wider in scope of coverage and will collect additional useful and actionable information previously not available through the Residential Real Estate GTOs. As such, the nationwide reporting framework for certain residential real estate transfers will replace the current Residential Real Estate GTOs.

Some evidence suggests that, despite the restriction of reporting persons under the existing Residential Real Estate GTOs to title insurance companies only, certain additional categories of real estate professionals may already be familiar—and have experience—with gathering the currently required information. For example, FinCEN observes that in some markets presently covered by the Residential Real Estate GTOs, realtors and escrow agents often assist title insurance companies with their reporting obligations despite not being subject to any formal reporting requirements themselves. Some may even have multiple years' worth of guidance and informational support by the regional or national trade association of which they are a member in how best to facilitate and enable compliance with existing FinCEN requirements. For instance, in 2021, the National Association of Realtors advised that while ''[r]eal estate professionals do

[51] Office of Management and Budget, Circular A–4 (Nov. 9, 2023), *available at https://www.whitehouse.gov/wp-content/uploads/2023/11/CircularA-4.pdf.*

not have any affirmative duties under the Residential Real Estate GTOs,'' such entities should nevertheless expect that ''a title insurance company may request information from real estate professionals to help maintain its compliance with the Residential Real Estate GTOs. Real estate professionals are encouraged to cooperate and provide information in their possession.'' [52] Thus, the historical Residential Real Estate GTOs' attempt to limit the definition of reporting persons to title insurance companies does not seem to have completely forestalled the imposition of time, cost, and training burdens on other real estate transfer-related businesses. As such, the cascading reporting approach might not mark a complete departure from current practices and the related burdens of Residential Real Estate GTO requirements, as they may already in some ways be functionally applicable to multiple prospective reporting persons in the rule's reporting cascade.

ii. BOI Reporting Rule

Furthermore, following the enactment of the CTA, beneficial ownership information of certain legal entities is required to be submitted to FinCEN. However, as set out in the NPRM preamble and also discussed above,[53] the information needed to ascertain money laundering risk in the residential real estate sector differs in key aspects from what is collected under the CTA, and, accordingly, the information collected under this rule differs from that collected under the CTA.

For example, FinCEN believes that a critical part of the rule is that it will alert law enforcement to the fact that a residential real estate transfer fitting within a known money laundering typology has taken place. While beneficial ownership information collected under the CTA may be available, that information concerns the ownership composition of a given entity at a given point in time. As such reporting does not dynamically extend to include information on the market transactions of the beneficially owned legal entity, it would not alert law enforcement officials focused on reducing money laundering that any real estate transfer has been conducted, which includes those particularly vulnerable to money laundering such as non-financed transfers of residential property.

Furthermore, the scope of entities that are the focus of the real estate rule is broader than the CTA, as certain types of entities, including most trusts, are not required to report under the CTA. Because non-excepted trusts under the residential real estate rule generally do not have an obligation to report beneficial ownership under the CTA, their incremental burden of compliance with the Real Estate Report requirements may be moderately higher insofar as the activities of collecting, presenting, or certifying beneficial ownership information are less likely to have already been performed for other purposes.

iii. Customer Due Diligence (CDD) Rule

The CDD Rule's [54] beneficial ownership requirement addressed a regulatory gap that enabled persons looking to hide ill-gotten proceeds to potentially access the financial system anonymously. Among other things, it required covered financial institutions to identify and verify the identity of beneficial owners of legal entity customers, subject to certain exceptions and exemptions; beneficial ownership and identification therefore became a component of AML requirements.

Financial institutions subject to the CDD Rule are required to collect some beneficial ownership information from legal entities that establish new accounts. However, this rule covers non-financed transfers of residential real estate that do not involve financial institutions covered by the CDD Rule. The rule would also collect additional information relevant to the real estate transfers that is currently not collected under the CDD Rule.

iv. Other (Form 1099–S)

In the course of current residential real estate transfers, some parties that might be deemed ''transferors'' under the rule already prepare and report portions of the requisite information to other regulators. For example, the IRS collects taxpayer information through Form 1099–S on seller-side proceeds from reportable real estate transfers for a broader scope of reportable real estate transfers than this rule.[55] This information, however, is generally unavailable for one of the primary purposes of this rule, as there are significant statutory limitations on the ability of the IRS to share such information with Federal law enforcement or other Federal agencies. In addition to these statutory limitations on IRS disclosure of taxpayer information, details about the buyer's beneficial ownership (the focus of this rule) largely fall outside the scope of transaction information reported on the Form 1099–S.

However, IRS Form 1099–S is nonetheless relevant to the rule's regulatory baseline, given the process by which the Form 1099–S may be prepared and submitted to the IRS. Similar to the Real Estate Report, the person responsible for filing the IRS Form 1099–S can either be determined through a cascade of the various parties who may be involved in the closing or settlement process, or, alternatively, certain categories of the involved parties may enter into a written agreement at or before closing to designate who must file Form 1099–S for the transaction. The agreement must identify the designated person responsible for filing the form, but it is not necessary that all parties to the transaction, or that more than one party even, enter into the agreement. The agreement must: (1) identify by name and address the person designated as responsible for filing; (2) include the names and addresses of each person entering into the agreement; (3) be signed and dated by all persons entering into the agreement; (4) include the names and addresses of the transferor and transferee; and (5) include the address and any other information necessary to identify the property. The rule's designation agreement requires, and is limited to, the same five components that may be included in a designation agreement accompanying Form 1099–S. Therefore, the exercise of designation, as well as the collection of information and signatures that it involves, may already occur in connection with certain transfers of residential real property and in these cases be leveraged at minimal additional expense.

[52] *See* National Association of Realtors, ''Anti-Money Laundering Voluntary Guidelines for Real Estate Professionals'' (Feb. 16, 2021), p. 3, *available at https://www.narfocus.com/billdatabase/clientfiles/172/4/1695.pdf.*

[53] *See* Section III.C.5.c.

[54] FinCEN, ''Customer Due Diligence Requirements for Financial Institutions,'' 81 FR 29398 (May 11, 2016).

[55] Reportable real estate for purposes of IRS Form 1099–S includes, for example, commercial and industrial buildings (without a residential component) and non-contingent interests in standing timber, which are not covered under the rule.

b. Baseline of Affected Parties

i. Transferees

Legal Entities

According to a recent study [56] that analyzed Ztrax data [57] covering 2,777 U.S. counties and over 39 million residential housing market transactions from 2015 to 2019, the proportion of average county-month non-financed residential real estate transactions involving purchases by legal entities was approximately 11 percent during the five-year period analyzed. When the sample is divided into counties that, by 2019, were under Residential Real Estate GTOs versus those that were never under Residential Real Estate GTOs, the proportions of average county-month non-financed sales to total purchases are approximately 13.6 percent and 11.2 percent, respectively.

Legal entities that own U.S. residential real estate vary by size and complexity of beneficial ownership structure, and by some measures, have increased market participation over time.[58] FinCEN analysis of the Department of Housing and Urban Development and Census Bureau's Rental Housing Finance Survey (RHFS) data for 2018 found that micro investors or small business landlords who owned 1–2 units owned 66 percent of all single family and multifamily structures with 2–4 units. Conversely, investors in the residential rental market who owned at least 1,000 properties owned only 2 percent of single-family homes and multi-family structures.

FinCEN did not receive any comments, studies, or data that meaningfully conflict with these estimates or the manner in which they informed the NPRM RIA's initial estimates of the number of reportable transfers per year.

Trusts

The final rule requires the reporting of certain non-finance transfers of residential real property to transferee trusts.[59] Residential real property purchases by transferee trusts have not generally been reported under the Residential Real Estate GTOs and the entities themselves are typically [60] not subject to beneficial ownership reporting requirements under the CTA. Therefore, FinCEN expects that trusts would be more homogenously newly affected by the rule than legal entities, discussed above, as a cohort of affected parties.

Establishing a baseline population of potentially affected transferee trusts based on the existing population of legal trusts is challenging for several reasons. These reasons include the general lack of comprehensive and aggregated data on the number,[61] value, usage, and holdings of trusts formed in the United States, which in turn is a result of heterogeneous registration and reporting requirements, including instances where neither requirement currently exists. Because domestic trusts are created and administered under State law, and states have broad authority in how they choose to regulate trusts, there is variation in both the proportion of potential transferee trusts that are currently required to register as trusts in their respective states as well as the amount of information a given trust is required to report to its state about the nature of its assets or its structural complexity. Thus, limited comparable information may be available at a nationwide level besides what is reported for Federal tax purposes, and what is available is unlikely to represent the full population of potentially affected parties that would meet the definition of transferee trust if undertaking the non-financed transfer of residential real property.

International heterogeneity in registration and reporting requirements for foreign trusts creates similar difficulties in assessing the population of potentially affected parties that are not originally registered in the United States. Further complicating this assessment is the exogeneity and unpredictability of changes to foreign tax and other financial policies, which studies in other, related contexts have shown, generally affect foreign demand for real estate.[62]

While it is difficult to know exactly how many existing trusts there are, and within that population how many own residential real property (as a potential indicator of what proportion of new trusts might eventually be used to own residential real property), there is nevertheless a consistency in the limited existing empirical evidence that would support a conjecture that proportionally few of the expected reportable transfers would be likely to involve a transferee trust. A recent study of U.S. single-property residential purchases that occurred between 2015 and 2019 identified a trust as the buyer in 3.3 percent of observed transactions.[63] FinCEN also conducted additional analysis of publicly available data that might help to quantify the proportion of trust ownership in residential real estate and more clearly account for non-sale transfers for no consideration. Based on the RHFS, identifiable trusts accounted for approximately 2.5 percent of rental housing ownership and approximately 8.2 percent of non-natural person ownership of rental housing.[64]

To the extent that trusts' current residential real property holdings are linear in the number of housing units and current holdings is a reliable proxy for future purchasing activity, FinCEN does not expect the proportion of reportable transfers involving a transferee trust to exceed 5 percent of potentially affected transfers. No further refinements to this upper-bound-like estimate, based on the number of existing trusts that may be affected, would be feasible without a number of additional assumptions about market behavior that FinCEN declines to impose in the absence of better/more data.

While the majority of public comments pertaining to trusts suggested that the number of affected trusts would be substantially higher than the original RIA had anticipated, FinCEN is not revising or updating its baseline

[56] *See* Matthew Collin, Florian Hollenbach, and David Szakonyi, ''The impact of beneficial ownership transparency on illicit purchases of U.S. property,'' Brookings Global Working Paper #170, (Mar. 2022), p. 14, *available at https://www.brookings.edu/wp-content/uploads/2022/03/Illicit-purchases-of-US-property.pdf.*

[57] Zillow, Transaction and Assessment Database (ZTRAX), *available at https://www.zillow.com/research/ztrax/.*

[58] *See* Redfin, ''Investors Bought 26% of the Country's Most Affordable Homes in the Fourth Quarter—the Highest Share on Record,'' (Feb. 14, 2024), *available at https://www.redfin.com/news/investor-home-purchases-q4-2023/.*

[59] *See* Section III.C.2.e.

[60] FinCEN notes that while most trusts are not reporting companies under the BOI Reporting Rule, a reporting company would be required to report a beneficial owner that owned or controlled the reporting company through a trust.

[61] FinCEN notes that while the U.S. Census Bureau does produce annual statistics on the population of certain trusts (NAICS 525—Funds, Trusts, and Other Financial Vehicles), such trusts are unlikely to be affected by the rule and thus their population size is not informative for this analysis.

[62] *See, e.g.,* Cristian Badrinza and Tarun Ramadorai, ''Home away from home? Foreign demand and London House prices,'' Journal of Financial Economics 130 (3) (2018), pp. 532–555, *available at https://www.sciencedirect.com/science/article/abs/pii/S0304405X18301867?via%3Dihub; see also* Caitlan S. Gorback and Benjamin J. Keys, ''Global Capital and Local Assets: House Prices, Quantities, and Elasticities,'' Technical Report, National Bureau of Economic Research (2020), *available at https://www.nber.org/papers/w27370.*

[63] *See* Matthew Collin, Florian Hollenbach, and David Szakonyi, ''The impact of beneficial ownership transparency on illicit purchases of U.S. property,'' Brookings Global Working Paper #170, (Mar. 2022), p. 14, *available at https://www.brookings.edu/wp-content/uploads/2022/03/Illicit-purchases-of-US-property.pdf.*

[64] *See* U.S. Census Bureau, Rental Housing Finance Survey (2021), *available at https://www.census.gov/data-tools/demo/rhfs/#/?s_year=2018&s_type=1&s_tableName=TABLE2.*

estimates at this stage because the final rule has adopted certain broad exceptions that materially limit the reporting of transfers to trusts.

Excepted Transferees

Exceptions to the general definitions of transferee entities and transferee trusts apply to certain highly regulated entities and trusts that are subject to AML/CFT program requirements or to other significant regulatory reporting requirements.

For example, PIVs that are investment companies and registered with the SEC under section 8 of the Investment Company Act of 1940 are excepted, while unregistered PIVs engaging in reportable transfers are not. Unregistered PIVs are instead required to provide the reporting person with specified information, particularly including the required information regarding their beneficial owners. FinCEN analysis of costs below continues to assume that any such unregistered PIV stood up for a reportable transfer would generally have, or have low-cost access to, the information necessary for filing Real Estate Reports. FinCEN expects that a PIV that is not registered with the SEC—which can have at maximum four investors whose ownership percent is or exceeds 25 percent (the threshold for the ownership prong of the beneficial ownership test for entities)—would likely either (1) be an extension of that large investor, or (2) have a general partner who actively solicited known large investors. In either case, the unregistered PIV is likely to have most of the beneficial ownership information that would be required to complete the Real Estate Report and access to the beneficial owner(s) to request the additional components of required information not already at hand. FinCEN did not receive any comments indicating that these expectations are unreasonable and thus continues to operate under these assumptions with respect to baseline costs.

Operating companies subject to the Securities Exchange Act of 1934's current and periodic reporting requirements, including certain special purpose acquisition companies (SPACs) and issuers of penny-stock, are also excepted transferees under this rule. FinCEN notes that the percent ownership threshold for beneficial ownership for SEC regulatory purposes is considerably lower than as defined in the CTA and related Exchange Act beneficial ownership-related disclosure obligations usually apply to more control persons at such a registered operating company.[65] Additionally, disclosures about the acquisition of real estate, including material non-financed purchases of residential property, are already required in certain periodic reports filed with the SEC.[66] Therefore, an incremental informational benefit from not excepting SEC-registered operating companies as transferees for the purposes of this rule's reporting requirements may either not exist or, at best, be very low while the costs to operating companies of reporting and compliance with an additional Federal regulatory agency are expected to be comparatively high.

Some commenters expressed concern that it might be difficult or burdensome for reporting persons to determine if a transfer might be exempt from reporting on the basis of the transfer being made to an excepted transferee. However, the final rule adopts a reasonable reliance standard, and therefore the reporting person may reasonably rely on information provided by others as described in Section III.B.2.4, including with respect to whether the transferee is exempt. Furthermore, should a reporting person nevertheless want to verify the excepted status of a transferee, FinCEN notes that the status of transferees as excepted pursuant to being registered with the SEC should be easily verifiable by a name search in the agency's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system, which can be queried using open access, publicly available search tools.

ii. Reporting Entities

Because the reporting cascade is ordered by function performed, or service provided, rather than by defined occupations or categories of service providers,[67] attribution of work to the capacity in which a person is primarily employed is necessarily imprecise. To account for the need to map from services provided to entities providing such services as a prerequisite to estimating the number of potentially affected parties, FinCEN acknowledges, but abstracts from, the common observation that title agents and settlement agents are ''often the same entity that performs two separate functions in a real estate transaction,'' and that ''the terms title agent and settlement agent are often used interchangeably.'' [68] For purposes of the remaining RIA, FinCEN groups potential reporting persons by features of their primary occupation and treats them as functionally distinct members of the cascade, acknowledging that this is done more for analytical clarity than as a rigid expectation about the capacity in which an individual is employed to service a given transfer. In total, FinCEN estimates there may be up to approximately 172,753 reporting persons and 642,508 employees of those persons that could be affected by the rule. Of this total, the distribution of potential reporting persons as identified by primary occupation [69] is: settlement agents (3.6 percent of potential reporting persons, 9.8 percent of the potentially affected labor force), title insurance companies (0.5 percent, 6.6 percent), real estate escrow agencies (10.9 percent, 10.5 percent), attorneys [70] (9.3 percent, 16.7 percent), and other real estate professionals [71] (75.5 percent, 56.4 percent). For purposes of cost estimates throughout the remaining analysis, FinCEN computed the

[65] *See* U.S. Securities and Exchange Commission, ''Officers, Directors, and 10% Shareholders,'' *available at https://www.sec.gov/education/smallbusiness/goingpublic/officersanddirectors.*

[66] *See, e.g.,* U.S. Securities and Exchange Commission, Instructions to Item 2.01 on Form 8–K; *see also* 17 CFR 210.3–14.

[67] *See supra* Section III.C.3.a for a description of the reporting cascade; *see also* proposed 31 CFR 1031.320(c)(1).

[68] *See* Nam D. Pham, ''The Economic Contributions of the Land Title Industry to the U.S. Economy,'' ndp Consulting (Nov. 2012), p. 6, *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2921931.* This study was included as an appendix to a 2012 American Land Title Association comment letter submitted to the Consumer Financial Protection Bureau (CFPB) on the Real Estate Settlement Procedures Act (RESPA).

[69] FinCEN notes that the capacity in which a reporting person facilitates a residential real property transfer may not always be in the capacity of their primary occupation. However, as analysis here relies on the U.S. Census Bureau's annual Statistics of U.S. Business Survey, which is organized by NAICS code, the following nominal primary occupations (NAICS codes) are used for grouping and counting purposes: Title Abstract and Settlement Offices (541191), Direct Title Insurance Carriers (524127), Other Activities Related to Real Estate (531390), Offices of Lawyers (541110), and Offices of Real Estate Agents and Brokers (531210). As noted in note 73, these NAICS codes are not the basis for hourly wage rate information used in this paragraph.

[70] The estimate of affected attorneys is calculated as ten percent of the total SUSB population of Offices of Lawyers. This estimate is based on the average from FinCEN analysis of U.S. legal bar association membership, performed primarily at the State level, identifying the proportion of (state) bar members that are members of the organization's (state's) real estate bar association. FinCEN considers this proxy more likely to overestimate than underestimate the number of potentially affected attorneys because, while not all members of a real estate bar association actively facilitate real estate transfers each year, it was considered less likely that an attorney would, in a given year, facilitate real estate transfers in a way that would make them a candidate reporting person for purposes of the proposed rule when such an attorney had not previously indicated an interest in real estate specific practice (by electing to join a real estate bar).

[71] NAICS Code 531210 (Offices of Real Estate Agents and Brokers).

following fully loaded [72] average [73] hourly wages [74] by the respective primary occupation categories: settlement agents, $79.35; title insurers, $106.49; real estate escrow agencies, $81.74; attorneys, $153.48; and other real estate professionals, $81.74. For reference, these wages estimates represent the following updates from the NPRM RIA:

TABLE 1—WAGE ESTIMATE REVISIONS FROM NPRM TO FINAL RULE RIA

Primary business categories	Fully loaded hourly wage (NPRM)	Fully loaded hourly wage (final)
Title Abstract and Settlement Offices	$70.33	$79.35
Direct Title Insurance Carriers	84.15	106.49
Other Activities Related to Real Estate	70.46	81.74
Offices of Lawyers	88.89	153.48
Offices of Real Estate Agents and Brokers	70.46	81.74

c. Market Baseline

i. Reportable Transfers

The scope of residential real estate transfers that would be affected by the rule is jointly defined by the (1) the nature of the property transferred, (2) the financed nature of the transfer, and (3) the legal organization of the party to whom the property is transferred. For purposes of identification, the defining attribute for the nature of the property is that it is principally designed, or intended to become, the residence of one to four families, including cooperatives and vacant or unimproved land. Additionally, the property must be located in the United States as defined in the BSA implementing regulations.

Reportable transfers exclude all those in which the transferees receive an extension of credit from a financial institution subject to AML/CFT program and SAR Reporting requirements that is secured by the residential real property being transferred. Reportable transfers also exclude transfers associated with an easement, death, divorce, or bankruptcy or that are otherwise supervised by a court in the United States, as well as certain no consideration transfers to trusts, certain transfers related to 1031 Exchanges, and any transfer for which there is no reporting person.

On the basis of available data, studies, and qualitative evidence, subject to certain qualifying caveats about limitations in data availability, and in the absence of large, unforeseeable shocks to the U.S. residential housing market, FinCEN's NPRM analysis estimated that the number of reportable transfers would be between approximately 800,000 and 850,000 annually. FinCEN received a number of comment letters suggesting that this estimate is too low. However, because most arguments of this nature were made on the basis of an understanding that the rule would include several kinds of transfers that have since been explicitly excepted in the final rule, FinCEN is not increasing its estimates.

ii. Current Market Characteristics

FinCEN took certain potentially informative aspects of the current market for residential real property into consideration when forming its expectations about the anticipated economic impact of the rule. Among other things, FinCEN considered trends in the observable rate of turnover in the stock of existing homes. Additionally, FinCEN reviewed recent studies and data from the academic literature estimating housing supply elasticities on previously developed versus newly developed land.

FinCEN also considered recent survey results of the residential real estate holdings of high-net-worth individuals and the proportion of survey respondents who self-reported the intent to purchase additional residential real estate in the coming year. Further, FinCEN reviewed studies of trends in the financing and certain distributional characteristics of shared equity housing, which includes co-operatives that will be affected by the rule.

iii. Current Market Practices

Settlement and Closing

FinCEN assessed the role of various persons in the real estate settlement and closing process to determine a quantifiable estimate of each profession or industry's overall participation in that process. Accordingly, FinCEN conducted research based on publicly available sources to assess the general participation rate of the different types of reporting persons in the rule's reporting cascade. As part of its analysis, FinCEN noted a recent blog post citing data from the American Land Title Association (ALTA) that 80 percent of homeowners purchase title insurance when buying a home.[75]

To better understand the distribution of the other types of persons providing residential real property transfer services to the transfers that are affected by the rule, FinCEN utilized county deed database records to approximate a randomly selected and representative sample of residential real estate transfers across the United States. FinCEN made efforts to collect deed data that reflected a representative, nation-wide sample, both in terms of the number and geographic dispersion of deeds, but acknowledges selection was nevertheless constrained in part by the feasibility to search by deed type, among other factors. FinCEN invited public feedback on the extent to which the same analysis would yield substantively different results if performed over a larger sample (with either more geographic locations, more

[72] Fully loaded wages are scaled by a benefits factor. The ratio between benefits and wages for private industry workers is (hourly benefits (11.86))/(hourly wages (28.37)) = 0.42, as of December 2023. The benefit factor is 1 plus the benefit/wages ratio, or 1.42. *See* U.S. Bureau of Labor Statistics, ''*Employer Costs for Employee Compensation Historical Listing,*'' available at *https://www.bls.gov/web/ecec/ececqrtn.pdf.* The private industry workers series data for December 2023 is available at *https://www.bls.gov/web/ecec/ececqrtn.pdf.*

[73] Because available wage estimates are not available for each SUSB category at the 6-digit NAICS level, FinCEN has estimated average wages over the collection of occupational subcategories likely to be affected for each corresponding category at the next most granular NAICS-level available.

[74] Wage estimates presented here, and used throughout the subsequent analysis, reflect two forms of updating from the NPRM: (1) wage data has been updated to reflect the BLS publication of the May 2023 National Occupational Employment and Wage Estimates in April 2024, (2) responsive to public comments that the previous wage estimates (based on national mean wages) might contribute to an underestimate of time cost burdens, FinCEN is electing to conservatively adopt 90th-percentile values of occupational wages in place of mean hourly wage.

[75] *See* American Land Title Association, Home Closing 101, ''Why 20% of Homeowners May Not Sleep Tonight,'' (June 3, 2020),available at *https://www.homeclosing101.org/why-20-percent-of-homeowners-may-not-sleep-tonight/.*

observations per location, or both), but did not receive any responsive data or the results of analysis based on such data.

The final analysis included 100 deeds, of which 97 involved at least one of the following potential reporting persons: (i) Title Abstract and Settlement Offices, (ii) Direct Title Insurance Carriers, or (iii) Offices of Lawyers. A candidate reporting person was deemed to be involved with the creation of the deed if either (i) a company or firm performing one of these functions was included on the deed or (ii) an individual performing or employed by a company or firm performing one of these functions was included on the deed. FinCEN assessed the distribution of alternative entities identified on the remaining deeds, categorizing by reporting person type. Based on this qualitative analysis, FinCEN tentatively anticipates that approximately three percent of reportable transfers might have a reporting person or reporting cascade that begins with someone other than a settlement agent, title insurer, or attorney.

Records Search

Currently, law enforcement searches a variety of State and commercial databases (that may or may not include beneficial ownership information), individual county record offices, and/or use subpoena authority to trace the suspected use of criminal proceeds in the non-financed transfer of residential real estate. Even after a significant investment of resources, the identities of the beneficial owners may not be readily ascertainable. This fragmented and limited approach can slow down and decrease the overall efficacy of investigations into money laundering through real estate. This was one reason that FinCEN introduced the Residential Real Estate GTOs, which law enforcement has reported have significantly expanded their ability to investigate this money laundering typology. At the same time, the Residential Real Estate GTOs have certain restrictions that limited its usefulness nationwide. This rule builds on and is intended to replace the Residential Real Estate GTO framework and creates reporting and recordkeeping requirements for specific residential real estate transfers nationwide.

3. Description of Final Rule Requirements

a. Reportable Transfers

The final rule requires certain persons involved in real estate closings and settlements to submit reports and keep records on identified non-financed transfers of residential real property to specified legal entities and trusts on a nationwide basis. The rule does not require transfers to be reported if the transfer is financed, meaning that the transfer involves an extension of credit to all transferees that is secured by the transferred residential real property and is extended by a financial institution that has both an obligation to maintain an AML program and an obligation to report suspicious transactions under this chapter. It also does not require reporting of: (i) a grant, transfer, or revocation of an easement; (ii) a transfer resulting from the death of an owner of residential real property; (iii) a transfer incident to divorce or dissolution of a marriage or civil union; (iv) a transfer to a bankruptcy estate; (v) a transfer supervised by a court in the United States; (vi) a transfer for no consideration made by an individual, either alone or with the individual's spouse, to a trust of which that individual, that individual's spouse, or both of them, are the settlor(s) or grantor(s); (vii) a transfer to a qualified intermediary for purposes of a 1031 Exchange; or (viii) a transfer that does not involve a reporting person. A report would also not need to be filed if the transferee is an exempt legal entity or trust, which are generally highly-regulated.

b. Reporting Persons

The final rule requires a reporting person, as determined by either the reporting cascade or as pursuant to a designation agreement, to complete and electronically file a Real Estate Report. The reporting person may generally obtain, and reasonably rely upon, information needed to complete the Real Estate Report from any other person. This reasonable reliance standard is more limited for purposes of obtaining the transferee's beneficial ownership information. In those situations, the reasonable reliance standard applies only to information provided by the transferee or the transferee's representative and only if the person providing the information certifies the accuracy of the information in writing to the best of their knowledge. The reporting person must file the report by the final day of the following month after which a closing took place, or 30 days after the date of the closing, whichever is later.

c. Required Information

The final rule requires the reporting person to report to FinCEN certain information about a reportable transfer of residential real property. This includes information on the reporting person, the transferee and its beneficial owners, the transferor, the property being transferred, and certain payment information. The collected information will be maintained by FinCEN in an existing database accessible to authorized users. Some commenters' remarks suggest that certain expectations of the rule's potential effects may flow from a misunderstanding about who may access Real Estate Report data once filed and how it may be used. FinCEN is therefore reiterating that both access and use of Real Estate Report data will be subject to the same restrictions as other BSA reports, including traditional SARs.

4. Expected Economic Effects

This section describes the main, quantifiable economic effects FinCEN anticipates the various affected parties identified above may experience. Because the primary expected value of the rule is in the extent to which it is able to address or ameliorate the economic problems discussed under the RIA's broad economic considerations, which (while substantial) is generally inestimable, no attempt is made to quantify the net benefit of the rule. Instead, the remainder of this section focuses primarily on the estimates of reasonably anticipated, calculable costs to affected parties. While FinCEN continues to principally anticipate aggregate cost estimates between approximately $267.3 million and $476.2 million in the first compliance year and current dollar value of the aggregate costs in subsequent years between approximately $245.0 million and $453.9 million annually, it has provided revised estimates throughout the remaining analysis, responsive to public comments, that reflect more conservative expectations about the cost of labor. Under these assumptions, the anticipated costs of the rule would be between approximately $428.4 and $690.4 million (midpoint $559.4 million) in the first compliance year and between approximately $401.2 and $663.2 million (midpoint $532.2 million) (current dollar value) in subsequent years. These quantified costs are a pro forma accounting cost estimate only and are not expected to represent either the full economic costs of the rule nor the net cost of the rule as measured against the components of expected benefits that may become quantifiable. As previously stated, the ability to successfully detect, prosecute, and deter crimes—or other illicit activities that rely on money laundering to be

profitable—is not readily translatable to dollar figures.[76] However, it might be inferred that a tacit expectation underlying this rulemaking is that the rule will generate intangible benefits worth over $500 million per year.[77]

a. Costs to Entities in the Reporting Cascade

i. Training

To estimate expected training costs, FinCEN adopted a parsimonious model similar, in certain respects, to the methodology used by FinCEN when publishing the RIA for the 2016 CDD Rule (CDD Rule RIA). Taking into consideration, however, that, unlike covered financial institutions under the CDD Rule, only one group of affected reporting persons has direct pre-existing experience with other FinCEN reporting and compliance requirements, the estimates of anticipated training time here are revised upward from the CDD Rule RIA to 75 minutes for initial training and 30 minutes for annual refresher training. FinCEN's method of estimation assumes that an employee who has received initial training once will then subsequently take the annual refresher training each following year. This assumption contemplates that more than half of the original training would not be firm-specific and remains useful to the employee regardless of whether they remain with their initial employer or change jobs within the same industry. As in the CDD Rule RIA high estimate model, FinCEN estimates that two-thirds of untrained employees receive the initial (lengthier) training each year. However, because the initial training is assumed to provide transferrable human capital in this setting, turnover is not relevant to the assignment to initial training in periods following Year 1. Thus, in the revised model, FinCEN calculated annual training costs as the combination of the expected costs of providing two-thirds of the previously untrained workforce per industry with initial (lengthier) training and all previously trained employees with the refresher (shorter) training. Time costs are proxied by an industry-specific fully loaded wage rate at the 90th percentile per industry.

TABLE 2—TRAINING COSTS

Estimated per person training costs		Initial training		Refresher (year 2+)	
Primary business categories	Fully loaded hourly wage	Time (hours)	Total	Time (hours)	Total (unadjusted)
Title Abstract and Settlement Offices	$79.35	1.25	$99.18	0.5	$39.67
Direct Title Insurance Carriers	106.49	1.25	133.11	0.5	53.24
Other Activities Related to Real Estate	81.74	1.25	102.17	0.5	40.87
Offices of Lawyers	153.84	1.25	192.30	0.5	76.92
Offices of Real Estate Agents and Brokers	81.74	1.25	102.17	0.5	40.87

To model industry-specific hiring inflows in periods following Year 1, FinCEN converted the Bureau of Labor Statistics (BLS) projected 10-year cumulative employment growth rates for 2022–2032 for the NAICS code mostly closely associated with a given industry available. Additionally, inflation data from the Federal Reserve Bank of St. Louis was utilized to estimate annual wage growth given the opportunity cost of training is assumed to be equivalent to the wage of employees. Utilizing these inputs, and summing costs across all industries expected to be affected, FinCEN estimates that the aggregate initial year training costs would be approximately $51.0 million dollars and the undiscounted aggregate training costs in each of the subsequent years would range between approximately $23.2 and $31.5 million.

FinCEN notes that fewer than five percent of unique comments received made specific reference to the training costs that the rule would necessitate and fewer still provided comments pertaining to the RIA estimates of training costs. While one commenter suggested that the uniformity of the rule would reduce the burden of preparing training materials relative to the current variety of Residential Real Estate GTO thresholds and applications, the majority of training cost-related comments simply noted that training costs would impose a burden and might separately lead to higher labor costs if new personnel require compensation for additional reporting compliance related subject-matter expertise. There were, however, some commenters who expressed a belief that the amount of time needed for—and frequency of—training needed to adequately prepare staff for compliance would be higher. While FinCEN is declining to responsively adjust its estimates of training-related time costs for reasons, among others, that are further discussed below, FinCEN is responsive to certain other commenters who expressed a perceived value to having a greater range of potential burden estimates to compare: had FinCEN adopted the suggested alternative training time costs, the aggregate annual training burden would have been either $81.5 million in year 1[78] or $101.9 million[79] in year 1, or between $63.5 and $130.8 million in a given year.[80]

In its NPRM analysis, FinCEN recognized that the rule would impose certain costs on businesses positioned to provide services to non-financed transfers of residential real property even in the absence of direct participation in a specific reportable transfer, including the costs of preparing informational material and training personnel about the proposed rule generally as well as certain firm-specific policies and procedures related to reporting, complying, and documenting compliance. Because this training burden was applied uniformly across all potentially affected occupational categories represented in the reporting cascade, which is already a conservative assumption given that some cascade tiers are, in practice, more likely to become the reporting person than others, FinCEN considered time burden

[76] *See* FinCEN, NPRM, ''Anti-Money Laundering Regulations for Residential Real Estate Transfers,'' 89 FR 12424, 12446–12447 (Feb. 16, 2024).

[77] Based on the observation that the midpoint values of first year ($559.4 million), subsequent year ($532.2 million), and the midpoint of the midpoint values between first and subsequent years ($545.8 million) are all approximately $500 million. *See also infra* Section VI.B for a discussion of annualized cost.

[78] Based on a comment that the initial training should be 120 minutes (2 hours).

[79] Based on a comment that the initial training should be double what FinCEN estimated (150 minutes, or 2.5 hours).

[80] Based on a comment that training would take 60 minutes (1 hour) per transfer, where FinCEN applies the lowest wage rate to the lower bound estimate of total annual reportable transfers to obtain the lower bound and applies the highest wage rate to the upper bound estimate of total annual reportable transfers to obtain the upper bound.

values (75 minutes for initial, 30 minutes for refresher) that would average across the expected variation in training by occupational category a reasonable approach. Furthermore, these training costs, as estimated in the NPRM, pertain only to those contemplated activities identified (developing general understanding of the rule and firm-specific compliance policies and procedures) and were not intended to reflect additional reporting-technology and form-specific training costs. Costs of training that are specific to the Real Estate Report will be separately estimated as a function of the RIA in the NPRM for the Real Estate Report; therefore, it would not have been appropriate to have included those training costs in the current final rule estimates as that would result in accounting for the same expense twice.

ii. Reporting

The total costs associated with reporting a given reportable transfer will likely vary with the specific facts and circumstances of the transfer. For instance, the cost of the time needed to prepare and file a report could differ depending on which party in the cascade is the reporting person, because parties receive different compensating wages. The costs associated with the time to determine who is the reporting person will also vary by the number of potential parties who may assume the role and thus might be parties to a designation agreement. Additionally, the time required to prepare a report will likely vary with the complexity of the beneficial ownership of the transferee and, for example, the level of the transferee entity's preexisting familiarity with the concepts of beneficial ownership information as defined for FinCEN purposes.

FinCEN continues to estimate an average per-party cost to determine the reporting person of 30 (15) minutes for the party that assumes the role if a designation agreement is (not) required and 15 minutes each for all non-reporting parties (assuming each tier in the cascade corresponds to one reporting person). Therefore, the range of potential time costs associated with determining the reporting person is expected to be between 15 to 90 minutes. Recently, FinCEN received updated information from parties currently reporting under the Residential Real Estate GTOs indicating that the previously estimated time cost of 20 minutes for that reporting requirement was less than half the average time expended per report in practice. Based on this feedback, the filing time burden FinCEN anticipates for the rule accordingly incorporates a 45-minute estimate for the collection and reporting of the subset of Real Estate Report required information that is similar to information in reports filed under the Residential Real Estate GTOs, although FinCEN recognizes that certain transfers may require significantly more time. Mindful of these outliers, FinCEN estimates an average 2 hour per reportable transfer time cost to collect and review transferee and transfer-specific reportable information and related documents, and an average 30 minute additional time cost to reporting.

TABLE 3—REPORTING COSTS

Estimated per transaction reporting costs		Non-reporting party		Reporting party			
Primary business categories	Fully loaded hourly wage	Designation		Designation-related		Designation-independent	
		Time (hours)	Total	Time (hours)	Total	Time (hours)	Total
Title Abstract and Settlement Offices	$79.35	0.25	$19.84	0.25	$19.84	2.75	$218.21
Direct Title Insurance Carriers	106.49	0.25	26.62	0.25	26.62	2.75	292.85
Other Activities Related to Real Estate	81.74	0.25	20.43	0.25	20.43	2.75	224.78
Offices of Lawyers	153.84	0.25	38.46	0.25	38.46	2.75	423.07
Offices of Real Estate Agents and Brokers	81.74	0.25	20.43	0.25	20.43	2.75	224.78

Based on the range of expected reportable transfers and the wages associated with different persons in the potential reporting cascade, FinCEN anticipates that the rule's reporting costs may be between approximately $174.6 million and $466.5 million.

In its original NPRM analysis, FinCEN stated an expectation that reporting persons would generally be able to rely on technology previously purchased and already deployed in the ordinary course of business (namely, computers and access to the internet) to comply with the proposed reporting requirements, and therefore no line item of incremental expected IT costs was ascribed to reporting. Certain commenters expressed that this expectation would be unrealistic because their current business practices rely on software for tracking and internal controls processes, for example, that would need to be updated in light of the rule's reporting requirements. However, FinCEN did not receive any comments that would enable it to quantify the expected burden associated with these software upgrades that commenters described. In the absence of readily generalizable cost estimates, it is therefore not feasible to update reporting costs responsively, though FinCEN acknowledges that, as a consequence, its aggregate burden estimates can, at best, function as a lower-bound expectation of the total costs of the rule.

iii. Recordkeeping

FinCEN continues to expect that the rule would impose recordkeeping requirements on reporting persons as well as, in certain cases, members of a given reportable transfer's cascade that are not the reporting person. The primary variation in expected recordkeeping costs would flow from the conditions under which the reporting person has assumed their role. Additional variation in costs may result from differences in the dollar value assigned to the reporting person's time costs as a function of their primary occupation.

If the reporting person assumes that role as a function of their position in the reporting cascade, this would imply that no meaningfully distinct person involved in the transfer provided the preceding service(s). In this case, the reporting person's recordkeeping requirements would be limited to the retention of compliance documents (*i.e.,* a copy of the transferee's certification of beneficial ownership information) for a period of five years in a manner that preserves ready availability for inspection as authorized by law. Recordkeeping costs would therefore include those associated with creating and/or collecting the necessary documents, storing the records in an accessible format, and securely disposing of the records after the required retention period has elapsed. FinCEN anticipates that over the full recordkeeping lifecycle, each reportable

transfer would, on average, require one hour of the reporting person's time, as well as a record processing and maintenance cost of ten cents. Because FinCEN expects that records will primarily be produced and recorded electronically and estimates its own processing and maintenance costs at ten cents per record, it has applied the same expected cost per reportable transfer to reporting persons. In aggregate, this would result in recordkeeping costs between approximately $63.6 million and $130.8 million associated with one year's reportable transfers.

TABLE 4—ESTIMATED RECORDKEEPING COSTS

Estimated per transaction recordkeeping costs		Non-reporting party		Reporting party			
Primary business categories	Fully loaded hourly wage	Designation-related		Designation-related		Designation-independent	
		Time (minutes)	Total *	Time (minutes)	Total *	Time (hours)	Total * (unadjusted)
Title Abstract and Settlement Offices	$79.35	5	$6.71	5	$6.71	1	$79.45
Direct Title Insurance Carriers	106.49	5	8.97	5	8.97	1	106.59
Other Activities Related to Real Estate	81.74	5	6.91	5	6.91	1	81.84
Offices of Lawyers	153.84	5	12.92	5	12.92	1	153.94
Offices of Real Estate Agents and Brokers	81.74	5	6.91	5	6.91	1	81.84

* Total Recordkeeping cost estimates include both labor (wages) and technology costs ($0.10).

If the reporting person has instead assumed that role as the result of a designation agreement, the rule would impose additional recordkeeping requirements on both the reporting person and at least one other member of the reporting cascade. This is because the existence of a designation agreement implies the existence of one or more distinct alternative parties to the reportable transfer that provided a preceding service or services as described in the cascade. While the final rule only stipulates that ''all parties to a designation agreement'' would also be anticipated to incur recordkeeping costs, FinCEN expects the minimum number of additional parties required to retain a readily accessible copy of the designation agreement for a five-year period would, in practice, depend on the number of alternative reporting parties servicing the transfer in a capacity that precedes the designated reporting person in the cascade, as it would otherwise be difficult to demonstrate the prerequisite sequence of conditions were met to establish the ''but for'' of the requirement. Conservatively assuming that each service in the cascade is provided by a separate party, this would impose an incremental recordkeeping cost on at least two parties per transfer and at most five. Because FinCEN estimates of reporting costs already assign the costs of preparing a designation agreement to the reporting person (when a transfer includes a designation agreement), the incremental recordkeeping costs it estimates here pertain solely to the electronic dissemination, signing, and storage of the agreement. This is assigned an average time cost of five minutes per signing party to read and sign the designation agreement, as well as a ten-cent record processing and maintenance cost per transfer. Thus, designation agreement-specific recordkeeping costs are expected to include a time cost of 10–50 minutes (assuming one party signing per tier of the cascade) and $0.20-$0.50 per reportable transfer that involves a designation. This corresponds to expected annual aggregate costs ranging from approximately $10.9 million to $36.1 million. FinCEN notes that it assumes that rational parties to a reportable transfer would not enter into a designation agreement if the expected cost of doing so, including compliance with the recordkeeping requirements, were not elsewhere compensated in the form of efficiency gains or other offsetting cost savings associated with other components of compliance with the rule, such as training or reporting costs. As such, the estimates provided here should only be taken to reflect a pro forma accounting cost.

iv. Other Costs

Several commenters expressed concern that in addition to the technological costs associated with new or upgraded software, they would face certain non-monetary costs in the form of increased technology and cybersecurity related risk. Because FinCEN is not requiring reporting persons to retain copies of filed Real Estate Reports, it is not clear how the incremental data that would be retained (*i.e.,* a copy of the beneficial ownership information certification and, if one exists, a copy of the designation agreement) could be meaningfully distinguished from other records a reporting person might retain in connection with the same reportable transfer for purposes of estimating a standalone burden of increased risk.

b. Government Costs

To implement the rule, FinCEN expects to incur certain operating costs that would include approximately $8.5 million in the first year and approximately $7 million each year thereafter. These estimates include anticipated novel expenses related to technological implementation,[81] stakeholder outreach and informational support, compliance monitoring, and potential enforcement activities, as well as certain incremental increases to pre-existing administrative and logistical expenses.

While such operating costs are not typically considered part of the general economic cost of a rule, FinCEN acknowledges that this treatment implicitly assumes that resources commensurate with the novel operating costs exist. If this assumption does not hold, then operating costs associated with a rule may impose certain economic costs on the public in the form of opportunity costs from the agency's forgone alternative activities and those activities' attendant benefits. Putting that into the context of this rule, and benchmarking against FinCEN's actual appropriated budget for fiscal year 2023 ($190.2 million),[82] the corresponding opportunity cost would resemble forgoing approximately 4.5 percent of current activities annually.

5. Economic Consideration of Policy Alternatives

In the NPRM, FinCEN analyzed the expected impact of three policy alternatives to the proposed rule and invited public comment regarding the

[81] Technological implementation for a new reporting form contemplates expenses related to development, operations, and maintenance of system infrastructure, including design, deployment, and support, such as a help desk. It includes an anticipated processing cost of $0.10 per submitted Real Estate Report.

[82] FinCEN, ''Congressional Budget Justification and Annual Performance Plan and Report FY 2024'' (2023), *available at https://home.treasury.gov/system/files/266/15.-FinCEN-FY-2024-CJ.pdf.*

viability and preferability of these alternatives.

First, instead of the designation option included in the proposed rule, FinCEN could have required the reporting person to be determined strictly by the reporting cascade, leaving it to the parties to a covered transfer to determine which service provider would meet the highest tier of the cascade and consequently be required to report without any option to select whichever party in the reporting cascade is best-positioned to file the report. FinCEN expects that rational parties would prefer to assign the reporting obligation to the party who can complete the report most cost-effectively. An alternative reporting structure that does not allow the parties to designate a reporting person responsible for the report would therefore be less cost-effective than the approach proposed in the NPRM, unless the reporting cascade would always assign the reporting requirement to the party with the lowest associated compliance costs. Because FinCEN expects that parties to the covered transfer may be better situated to determine which party can complete the required report in the most cost-effective manner, FinCEN declined to propose a standalone reporting cascade. FinCEN did not receive any comments indicating that it was mistaken in its assumptions, nor did it receive any comments indicating a preference for the designation option to be removed.

As a second alternative, FinCEN could have proposed to impose the full traditional SAR filing obligations and AML/CFT program requirements on the various real estate professionals included in the proposed reporting cascade instead of the narrower requirement that only one participant party would be required to file a Real Estate Report. While imposing full AML/CFT program requirements on all real estate professionals would have almost certainly served to mitigate the illicit finance risks in the residential real estate sector, FinCEN considered that the costs accompanying this alternative would be commensurately more significant and would likely disproportionately burden small businesses. Such weighting of costs towards smaller entities was expected to increase transaction costs associated with residential real property transfers both directly via program-related operational costs and indirectly via the potential anticompetitive effects of program costs and was therefore considered a less viable alternative than the streamlined reporting obligation proposed. FinCEN did not receive any comments indicating that it was mistaken in its expectations about the economic impact of this alternative or its lesser desirability.

Finally, as a third alternative, FinCEN could have required the reporting person to certify the transferee's beneficial ownership information instead of allowing them to rely upon the transferee entity or trust to certify to the reporting person that the beneficial ownership information they have provided is accurate to the best of their knowledge. FinCEN anticipated that this alternative would likely be accompanied by a number of increased costs, including a potential need for longer, more detailed compliance training; lengthier time necessary to collect and review documents supporting the reported transferee beneficial ownership information required; and increased recordkeeping costs. FinCEN also considered that there might also be costs associated with transfers that would not occur if, for example, a reporting person was unwilling or unable to certify the transferee's information. Furthermore, FinCEN was concerned about the potential anticompetitive effects that might arise if certain reporting persons are better positioned to absorb the risks associated with certifying transferee beneficial ownership information, as it was foreseeable that smaller businesses could be at a disadvantage. FinCEN did not receive any comments indicating that it was mistaken in its expectations about the economic impact of this alternative or comments from potentially affected transferees that they would prefer the reporting person to provide certification instead.

B. EOs 12866, 13563, and 14094

E.O. 12866 and its amendments direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, and public health and safety effects; distributive impacts; and equity).[83] E.O. 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. E.O. 13563 also recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively values that are difficult or impossible to quantify.[84]

Because annual residential real estate transaction volume can vary significantly from year to year and is sensitive to a host of macroeconomic factors (some of which cannot easily be modeled with reasonable accuracy), estimates that rely on average values of current data projected over extended periods of time into the future may be of limited informational value. Nevertheless, FinCEN has prepared certain annualized cost estimates as recommended in OMB circular A–4.[85] Using the midpoint of the estimated range of expected costs in year one of compliance[86] and in subsequent years,[87] FinCEN estimates that the net present value of costs associated with a five-year time horizon is $2.21 billion ($2.46 billion) using a 7 precent (3 percent) discount rate, respectively. This equates to annualized costs of $538.4 million ($538.0 million) using the same discount rates.

This rule has been designated a ''significant regulatory action;'' accordingly, it has been reviewed by the Office of Management and Budget (OMB).

C. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the RFA[88] requires the agency either to provide an initial regulatory flexibility analysis (IRFA) with a proposed rule or to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities. In its NPRM, FinCEN asserted that, although the rule might apply to a substantial number of small entities,[89] it

[83] E.O. 14094 sets the threshold that triggers regulatory impact analytical requirements at $200 million in expected annual burden.

[84] E.O. 13563, 76 FR 3821 (Jan. 21, 2011), § 1(c) (''Where appropriate and permitted by law, each agency may consider (and discuss qualitatively) values that are difficult or impossible to quantify, including equity . . . and distributive impacts.'')

[85] *See* Office of Management and Budget, ''Circular A–4—Subject: Regulatory Analysis,'' (Sept. 17, 2003), *available at https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/.*

[86] The midpoint value of estimated first year costs is $559.4 million; *see supra* note 76.

[87] The midpoint value of estimated subsequent year costs is $532.2 million; *see supra* note 76.

[88] 5 U.S.C. 601 *et seq.*

[89] *See* FinCEN, NPRM, ''Anti-Money Laundering Regulations for Residential Real Estate Transfers,'' 89 FR 12424, 12458 (Feb. 16, 2024) (finding that ''an upper bound of potentially affected small entities includes approximately 160,800 firms (by the following primary business classifications: approximately 6,300 Title and Settlement Agents, 800 Direct Title Insurance Carriers, 18,000 persons performing Other Activities Related to Real Estate, 15,700 Offices of Lawyers, and 120,000 Offices of Real Estate Agents and Brokers),'' though ''the point estimates differ non-trivially by how 'small' is operationally defined, and do not do so

was not expected to have a significant economic impact on a substantial number of them.[90] The preliminary basis for this expectation, at that stage, included FinCEN's attempts to minimize the burden on reporting persons by streamlining the reporting requirements and providing for an option to designate the reporting obligation. Accordingly, FinCEN certified that the proposed rule would not have a significant economic impact on a substantial number of small entities.[91]

Having considered the various possible outcomes for small entities under the reporting requirements at the proposal stage [92] and having taken the public comments received in response to the NPRM into consideration, FinCEN continues to believe that the rule will not have a significant economic impact on a substantial number of small entities,[93] and therefore that certification remains appropriate and a Final Regulatory Flexibility Analysis (FRFA) is not required. Changes made from the NPRM to the final rule reinforce this conclusion. The final rule contains additional exceptions for low-risk transfers and otherwise clarifies the scope of transactions to which the rule will apply, and also adopts a reasonable reliance standard with respect to information provided to reporting persons. As a result, FinCEN expects that the final rule will result in a more narrowly scoped burden in general than the proposed rule that was certified at the NPRM stage.[94] FinCEN expects that small entities affected by the final rule would experience a proportionate share of this reduction in burden when compared to the proposed rule, resulting in a more limited burden for small entities under the final rule when compared to the proposed rule, noting again that the proposed rule was itself certified as not having a significant economic impact on a substantial number of small entities.

Nevertheless, while further steps to accommodate or discuss small entity concerns may not be a strict requirement, FinCEN is mindful of the small-business-oriented views and concerns voiced during the public comment period and has not precluded taking additional steps, as feasible, to facilitate implementation of the final rule in a manner that minimizes the perceived or realized competitive disadvantages a small business or other affected small entity may face. This includes, but may not be limited to, targeted outreach and production of training materials such as FAQs or a Small Entity Compliance Guide, in addition to the more broadly available support services as previously discussed in Section III.A and Section VI.A.iv.b.

Certification

Having considered the various possible outcomes for small entities under the reporting requirements at the proposal stage and having taken the public comments received in response to the NPRM into consideration for the final rule, FinCEN continues to certify that the rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Section 202 of the UMRA [95] requires that an agency prepare a statement before promulgating a rule that may result in expenditure by state, local, and Tribal governments, or the private sector, in the aggregate, of $184 million or more in any one year.[96] Section 202 of the UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN believes that the preceding assessment of impact [97] satisfies the UMRA's analytical requirements.

E. Paperwork Reduction Act

The new information collection requirements contained in this rule (31 CFR 1031.320) have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* under control number 1506–0080. The PRA imposes certain requirements on Federal agencies in connection with their conducting or sponsoring any collection of information as defined by the PRA. Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The rule includes three information collection requirements: Real Estate Reports, which will be submitted to FinCEN, and, depending on the circumstances of the transfer, a designation agreement and/or a certification form for beneficial ownership information, neither of which will be submitted to FinCEN but which must be retained for five years.

Reporting and Recordkeeping Requirements: The provisions in this rule pertaining to the collection of information can be found in paragraph (a) of 31 CFR 1031.320. The information required to be reported by the rule will be used by the U.S. Government to monitor and investigate money laundering in the U.S. residential real estate sector. The information required to be maintained will be used by Federal agencies to verify compliance by reporting persons with the provisions of the rule. The collection of information is mandatory.

OMB Control Number: 1506–0080

Frequency: As required

Description of Affected Public: Residential Real Estate Settlement Agents, Title Insurance Carriers, Escrow Service Providers, Other Real Estate Professionals

Estimated Number of Responses: 850,000 [98]

Estimated Total Annual Reporting and Recordkeeping Burden: 4,604,167 burden hours [99]

unidirectionally across methodologies and data sources'').

[90] *Id.* at 12452.

[91] *See* U.S. Small Business Administration, ''How to Comply with the Regulatory Flexibility Act,'' p.44, n.144 (Aug. 2017), *available at https://advocacy.sba.gov/wp-content/uploads/2019/07/How-to-Comply-with-the-RFA-WEB.pdf* (stating that ''The Office of Advocacy believes that, given the emphasis in the law on public notice, the certification should also appear in the final rule even though there may have already been a certification in the proposed rule. Doing so will help demonstrate the continued validity of the certification after receipt of public comments'').

[92] When certifying at the NPRM stage, FinCEN discussed the basis on which its expectations were formed by considering the spectrum of potential burdens and costs a small business might incur as a result of the rule. This included considering the outcomes on businesses that would either incur no change in burden, a partial increase in burden, or the full increase in burden contemplated by the rule. In this analysis, FinCEN estimated that the incremental burden of complying with the rule would equate to an approximately 0%, 0.2%, or 0.5% increase in the average annual payroll expense of one employee, respectively, and was therefore unlikely to be significant.

[93] *See supra* note 91.

[94] While FinCEN has raised its estimate of the maximum anticipated cost per transaction (from $363.17 to $628.39 for reporting persons and from an aggregate of $103.43 to $116.84 for the maximally inclusive number of non-reporting persons per transfer), the number of transactions to which the burden would apply (and could thereby become a transfer a small business would be required to report should it not enter into a designation agreement) is reduced.

[95] *See* 2 U.S.C. 1532(a).

[96] The U.S. Bureau of Economic Analysis reported the annual value of the gross domestic product (GDP) deflator in 1995 (the year in which UMRA was enacted) as 66.939; and in 2023 as 123.273. *See* U.S. Bureau of Economic Analysis, ''Table 1.1.9. Implicit Price Deflators for Gross Domestic Product'' (accessed June 5, 2024). Thus, the inflation adjusted estimate for $100 million is 123.273 divided by 66.939 and then multiplied by 100, or $184.157 million.

[97] *See generally* Section VI.A.

[98] This estimate represents the upper bound estimate of reportable transfers per year as described in greater detail above in Section VI.A.2.

[99] This estimate includes the upper bound estimates of the time burden of compliance, as described in greater detail above, with the reporting and recordkeeping requirements. *See* Section VI.A.4.ii and Section VI.A.4.iii.

Estimated Total Annual Reporting and Recordkeeping Cost:
$630,976,662.47 [100]

F. Congressional Review Act

OMB's Office of Information and Regulatory Affairs has designated this rule as meeting the criteria under 5 U.S.C. 804(2) for purposes of Subtitle E of the Small Business Regulatory Enforcement and Fairness Act of 1996 (also known as the Congressional Review Act or CRA).[101] Under the CRA, such rules generally may take effect no earlier than 60 days after the rule is published in the **Federal Register**.[102]

List of Subjects in 31 CFR Part 1031

Administrative practice and procedure, Aliens, Authority delegations (Government agencies), Bankruptcy, Banks and banking, Brokers, Buildings and facilities, Business and industry, Condominiums, Cooperatives, Courts, Currency, Citizenship and naturalization, Crime, Electronic filing, Estates, Fair housing, Federal home loan banks, Federal savings associations, Federal-States relations, Foreign investments in U.S., Foreign persons, Foundations, Holding companies, Home improvement, Homesteads, Housing, Indian—law, Indians, Indians—tribal government, Insurance companies, Investment advisers, Investment companies, Investigations, Lawyers, Legal services, Law enforcement, Low and moderate income housing, Money laundering, Mortgage insurances, Mortgages, Penalties, Privacy, Real property acquisition, Record retention, Reporting and recordkeeping requirements, Small businesses, Securities, Taxes, Terrorism, Trusts and trustees, U.S. territories.

Authority and Issuance

■ For the reasons set forth in the preamble, chapter X of title 31 of the Code of Federal Regulations is amended by adding part 1031 to read as follows:

PART 1031—RULES FOR PERSONS INVOLVED IN REAL ESTATE CLOSINGS AND SETTLEMENTS

Sec.

Subparts A and B [Reserved]

Subpart C—Reports Required to be Made by Persons Involved in Real Estate Closings and Settlements

Authority: 12 U.S.C. 1829b, 1951–1959; 31 U.S.C. 5311–5314, 5316–5336; title III, sec. 314 Pub. L. 107–56, 115 Stat. 307; sec. 701 Pub. L. 114–74, 129 Stat. 599; sec. 6403, Pub. L. 116–283, 134 Stat. 3388.

Subparts A and B [Reserved]

Subpart C—Reports Required to be Made by Persons Involved in Real Estate Closings and Settlements

§ 1031.320 Reports of residential real property transfers.

(a) *General.* A reportable transfer as defined in paragraph (b) of this section shall be reported to FinCEN by the reporting person identified in paragraph (c) of this section. The report shall include the information described in paragraphs (d) through (i) of this section. The reporting person may reasonably rely on information collected from others under the conditions described in paragraph (j). The report required by this section shall be filed in the form and manner, and at the time, specified in paragraph (k) of this section. Records shall be retained as specified in paragraph (l) of this section. Reports required under this section and any other information that would reveal that a reportable transfer has been reported are not confidential as specified in paragraph (m) of this section. Terms not defined in this section are defined in 31 CFR 1010.100.

(b) *Reportable transfer.* (1) Except as set forth in paragraph (b)(2) of this section, a reportable transfer is a non-financed transfer to a transferee entity or transferee trust of an ownership interest in residential real property. For the purposes of this section, residential real property means:

(i) Real property located in the United States containing a structure designed principally for occupancy by one to four families;

(ii) Land located in the United States on which the transferee intends to build a structure designed principally for occupancy by one to four families;

(iii) A unit designed principally for occupancy by one to four families within a structure on land located in the United States; or

(iv) Shares in a cooperative housing corporation for which the underlying property is located in the United States.

(2) A reportable transfer does not include a:

(i) Grant, transfer, or revocation of an easement;

(ii) Transfer resulting from the death of an individual, whether pursuant to the terms of a decedent's will or the terms of a trust, the operation of law, or by contractual provision;

(iii) Transfer incident to divorce or dissolution of a marriage or civil union;

(iv) Transfer to a bankruptcy estate;

(v) Transfer supervised by a court in the United States;

(vi) Transfer for no consideration made by an individual, either alone or with the individual's spouse, to a trust of which that individual, that individual's spouse, or both of them, are the settlor(s) or grantor(s);

(vii) Transfer to a qualified intermediary for purposes of 26 CFR 1.1031(k)–1; or

(viii) Transfer for which there is no reporting person.

(c) *Determination of reporting person.* (1) Except as set forth in paragraphs (c)(2), (3) and (4) of this section, the reporting person for a reportable transfer is the person engaged within the United States as a business in the provision of real estate closing and settlement services that is:

(i) The person listed as the closing or settlement agent on the closing or settlement statement for the transfer;

(ii) If no person described in paragraph (c)(1)(i) of this section is involved in the transfer, then the person that prepares the closing or settlement statement for the transfer;

(iii) If no person described in paragraph (c)(1)(i) or (ii) of this section is involved in the transfer, then the person that files with the recordation office the deed or other instrument that transfers ownership of the residential real property;

(iv) If no person described in paragraphs (c)(1)(i) through (iii) of this section is involved in the transfer, then the person that underwrites an owner's title insurance policy for the transferee with respect to the transferred residential real property, such as a title insurance company;

(v) If no person described in paragraphs (c)(1)(i) through (iv) of this section is involved in the transfer, then the person that disburses in any form, including from an escrow account, trust account, or lawyers' trust account, the greatest amount of funds in connection with the residential real property transfer;

(vi) If no person described in paragraphs (c)(1)(i) through (v) of this section is involved in the transfer, then the person that provides an evaluation of the status of the title; or

[100] This estimate includes the upper bound estimates of the wage and technology costs of compliance, as described in greater detail above, with the reporting and recordkeeping requirements. *See* Section VI.A.4.ii and Section VI.A.4.iii.

[101] 5 U.S.C. 804(2) *et seq.*

[102] 5 U.S.C. 801(a)(3).

(vii) If no person described in paragraphs (c)(1)(i) through (vi) of this section is involved in the transfer, then the person that prepares the deed or, if no deed is involved, any other legal instrument that transfers ownership of the residential real property, including, with respect to shares in a cooperative housing corporation, the person who prepares the stock certificate.

(2) *Employees, agents, and partners.* If an employee, agent, or partner acting within the scope of such individual's employment, agency, or partnership would be the reporting person as determined in paragraph (c)(1) of this section, then the individual's employer, principal, or partnership is deemed to be the reporting person.

(3) *Financial institutions.* A financial institution that has an obligation to maintain an anti-money laundering program under this chapter is not a reporting person for purposes of this section.

(4) *Designation agreement.* (i) The reporting person described in paragraph (c)(1) of this section may enter into an agreement with any other person described in paragraph (c)(1) of this section to designate such other person as the reporting person with respect to the reportable transfer. The person designated by such agreement shall be treated as the reporting person with respect to the transfer. If reporting persons decide to use designation agreements, a separate agreement is required for each reportable transfer.

(ii) A designation agreement shall be in writing, and shall include:

(A) The date of the agreement;

(B) The name and address of the transferor;

(C) The name and address of the transferee entity or transferee trust;

(D) Information described in in paragraph (g) identifying transferred residential real property;

(E) The name and address of the person designated through the agreement as the reporting person with respect to the transfer; and

(F) The name and address of all other parties to the agreement.

(d) *Information concerning the reporting person.* The reporting person shall report:

(1) The full legal name of the reporting person;

(2) The category of reporting person, as determined in paragraph (c) of this section; and

(3) The street address that is the reporting person's principal place of business in the United States.

(e) *Information concerning the transferee*—(1) *Transferee entities.* For each transferee entity involved in a reportable transfer, the reporting person shall report:

(i) The following information for the transferee entity:

(A) Full legal name;

(B) Trade name or ''doing business as'' name, if any;

(C) Complete current address consisting of:

(*1*) The street address that is the transferee entity's principal place of business; and

(*2*) If such principal place of business is not in the United States, the street address of the primary location in the United States where the transferee entity conducts business, if any; and

(D) Unique identifying number, if any, consisting of:

(*1*) The Internal Revenue Service Taxpayer Identification Number (IRS TIN) of the transferee entity;

(*2*) If the transferee entity has not been issued an IRS TIN, a tax identification number for the transferee entity that was issued by a foreign jurisdiction and the name of such jurisdiction; or

(*3*) If the transferee entity has not been issued an IRS TIN or a foreign tax identification number, an entity registration number issued by a foreign jurisdiction and the name of such jurisdiction;

(ii) The following information for each beneficial owner of the transferee entity:

(A) Full legal name;

(B) Date of birth;

(C) Complete current residential street address;

(D) Citizenship; and

(E) Unique identifying number consisting of:

(*1*) An IRS TIN; or

(*2*) Where an IRS TIN has not been issued:

(*i*) A tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or

(*ii*) The unique identifying number and the issuing jurisdiction from a non-expired passport issued by a foreign government; and

(iii) The following information for each signing individual, if any:

(A) Full legal name;

(B) Date of birth;

(C) Complete current residential street address;

(D) Unique identifying number consisting of:

(*1*) An IRS TIN; or

(*2*) Where an IRS TIN has not been issued:

(*i*) A tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or

(*ii*) The unique identifying number and the issuing jurisdiction from a non-expired passport issued by a foreign government to the individual;

(E) Description of the capacity in which the individual is authorized to act as the signing individual; and

(F) If the signing individual is acting in that capacity as an employee, agent, or partner, the name of the individual's employer, principal, or partnership.

(2) *Transferee trusts.* For each transferee trust in a reportable transfer, the reporting person shall report:

(i) The following information for the transferee trust:

(A) Full legal name, such as the full title of the agreement establishing the transferee trust;

(B) Date the trust instrument was executed;

(C) Unique identifying number, if any, consisting of:

(*1*) IRS TIN; or

(*2*) Where an IRS TIN has not been issued, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; and

(D) Whether the transferee trust is revocable;

(ii) The following information for each trustee that is a legal entity:

(A) Full legal name;

(B) Trade name or ''doing business as'' name, if any;

(C) Complete current address consisting of:

(*1*) The street address that is the trustee's principal place of business; and

(*2*) If such principal place of business is not in the United States, the street address of the primary location in the United States where the trustee conducts business, if any; and

(D) Unique identifying number, if any, consisting of:

(*1*) The IRS TIN of the trustee;

(*2*) In the case that a trustee has not been issued an IRS TIN, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or

(*3*) In the case that a trustee has not been issued an IRS TIN or a foreign tax identification number, an entity registration number issued by a foreign jurisdiction and the name of such jurisdiction;

(E) For purposes of this section, an individual trustee of the transferee trust is considered to be a beneficial owner of the trust. As such, information on individual trustees must be reported in accordance with the requirements set forth in paragraph (e)(2)(iii) of this section;

(iii) The following information for each beneficial owner of the transferee trust:

(A) Full legal name;

(B) Date of birth;
(C) Complete current residential street address;
(D) Citizenship;
(E) Unique identifying number consisting of:
(*1*) An IRS TIN; or
(*2*) Where an IRS TIN has not been issued:
(*i*) A tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or
(*ii*) The unique identifying number and the issuing jurisdiction from a non-expired passport issued by a foreign government; and
(F) The category of beneficial owner, as determined in paragraph (j)(1)(ii) of this section; and
(iv) The following information for each signing individual, if any:
(A) Full legal name;
(B) Date of birth;
(C) Complete current residential street address;
(D) Unique identifying number consisting of:
(*1*) An IRS TIN; or
(*2*) Where an IRS TIN has not been issued:
(*i*) A tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or
(*ii*) The unique identifying number and the issuing jurisdiction from a non-expired passport issued by a foreign government to the individual;
(E) Description of the capacity in which the individual is authorized to act as the signing individual; and
(F) If the signing individual is acting in that capacity as an employee, agent, or partner, the name of the individual's employer, principal, or partnership.

(f) *Information concerning the transferor.* For each transferor involved in a reportable transfer, the reporting person shall report:
(1) The following information for a transferor who is an individual:
(i) Full legal name;
(ii) Date of birth;
(iii) Complete current residential street address; and
(iv) Unique identifying number consisting of:
(A) An IRS TIN; or
(B) Where an IRS TIN has not been issued:
(*1*) A tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or
(*2*) The unique identifying number and the issuing jurisdiction from a non-expired passport issued by a foreign government to the individual;
(2) The following information for a transferor that is a legal entity:
(i) Full legal name;
(ii) Trade name or ''doing business as'' name, if any;
(iii) Complete current address consisting of:
(A) The street address that is the legal entity's principal place of business; and
(B) If the principal place of business is not in the United States, the street address of the primary location in the United States where the legal entity conducts business, if any; and
(iv) Unique identifying number, if any, consisting of:
(A) An IRS TIN;
(B) In the case that the legal entity has not been issued an IRS TIN, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or
(C) In the case that the legal entity has not been issued an IRS TIN or a foreign tax identification number, an entity registration number issued by a foreign jurisdiction and the name of such jurisdiction; and
(3) The following information for a transferor that is a trust:
(i) Full legal name, such as the full title of the agreement establishing the trust;
(ii) Date the trust instrument was executed;
(iii) Unique identifying number, if any, consisting of:
(A) IRS TIN; or
(B) Where an IRS TIN has not been issued, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction;
(iv) For each individual who is a trustee of the trust:
(A) Full legal name;
(B) Current residential street address; and
(C) Unique identifying number consisting of:
(*1*) An IRS TIN; or
(*2*) Where an IRS TIN has not been issued:
(*i*) A tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or
(*ii*) The unique identifying number and the issuing jurisdiction from a non-expired passport issued by a foreign government; and
(v) For each legal entity that is a trustee of the trust:
(A) Full legal name;
(B) Trade name or ''doing business as'' name, if any;
(C) Complete current address consisting of:
(*1*) The street address that is the legal entity's principal place of business; and
(*2*) If the principal place of business is not in the United States, the street address of the primary location in the United States where the legal entity conducts business, if any; and
(D) Unique identifying number, if any, consisting of:
(*1*) An IRS TIN;
(*2*) In the case that the legal entity has not been issued an IRS TIN, a tax identification number issued by a foreign jurisdiction and the name of such jurisdiction; or
(*3*) In the case that the legal entity has not been issued an IRS TIN or a foreign tax identification number, an entity registration number issued by a foreign jurisdiction and the name of such jurisdiction.

(g) *Information concerning the residential real property.* For each residential real property that is the subject of the reportable transfer, the reporting person shall report:
(1) The street address, if any;
(2) The legal description, such as the section, lot, and block; and
(3) The date of closing.

(h) *Information concerning payments.* (1) The reporting person shall report the following information concerning each payment, other than a payment disbursed from an escrow or trust account held by a transferee entity or transferee trust, that is made by or on behalf of the transferee entity or transferee trust regarding a reportable transfer:
(i) The amount of the payment;
(ii) The method by which the payment was made;
(iii) If the payment was paid from an account held at a financial institution, the name of the financial institution and the account number; and
(iv) The name of the payor on any wire, check, or other type of payment if the payor is not the transferee entity or transferee trust.
(2) The reporting person shall report the total consideration paid or to be paid by the transferee entity or transferee trust regarding the reportable transfer, as well as the total consideration paid by or to be paid by all transferees regarding the reportable transfer.

(i) *Information concerning hard money, private, and other similar loans.* The reporting person shall report whether the reportable transfer involved credit extended by a person that is not a financial institution with an obligation to maintain an anti-money laundering program and an obligation to report suspicious transactions under this chapter.

(j) *Reasonable reliance*—(1) *General.* Except as described in paragraph (j)(2) of this section, the reporting person may rely upon information provided by other persons, absent knowledge of facts that would reasonably call into question the

reliability of the information provided to the reporting person.

(2) *Certification when reporting beneficial ownership information.* For purposes of reporting information described in paragraphs (e)(1)(ii) and (e)(2)(iii) of this section, the reporting person may rely upon information provided by the transferee or a person representing the transferee in the reportable transfer, absent knowledge of facts that would reasonably call into question the reliability of the information provided to the reporting person, if the person providing the information certifies the accuracy of the information in writing to the best of the person's knowledge.

(k) *Filing procedures*—(1) *What to file.* A reportable transfer shall be reported by completing a Real Estate Report.

(2) *Where to file.* The Real Estate Report shall be filed electronically with FinCEN, as indicated in the instructions to the report.

(3) *When to file.* A reporting person is required to file a Real Estate Report by the later of either:

(i) the final day of the month following the month in which the date of closing occurred; or

(ii) 30 calendar days after the date of closing.

(l) *Retention of records.* A reporting person shall maintain a copy of any certification described in paragraph (j)(2) of this section. In addition, all parties to a designation agreement described in paragraph (c)(4) of this section shall maintain a copy of such designation agreement.

(m) *Exemptions*—(1) *Confidentiality.* Reporting persons, and any director, officer, employee, or agent of such persons, and Federal, State, local, or Tribal government authorities, are exempt from the confidentiality provision in 31 U.S.C. 5318(g)(2) that prohibits the disclosure to any person involved in a suspicious transaction that the transaction has been reported or any information that otherwise would reveal that the transaction has been reported.

(2) *Anti-money laundering program.* A reporting person under this section is exempt from the requirement to establish an anti-money laundering program, in accordance with 31 CFR 1010.205(b)(1)(v).

(n) *Definitions.* For purposes of this section, the following terms have the following meanings.

(1) *Beneficial owner*—(i) *Beneficial owners of transferee entities.* (A) The beneficial owners of a transferee entity are the individuals who would be the beneficial owners of the transferee entity on the date of closing if the transferee entity were a reporting company under 31 CFR 1010.380(d) on the date of closing.

(B) The beneficial owners of a transferee entity that is established as a non-profit corporation or similar entity, regardless of jurisdiction of formation, are limited to individuals who exercise substantial control over the entity, as defined in 31 CFR 1010.380(d)(1) on the date of closing.

(ii) *Beneficial owners of transferee trusts.* The beneficial owners of a transferee trust are the individuals who fall into one or more of the following categories on the date of closing:

(A) A trustee of the transferee trust.

(B) An individual other than a trustee with the authority to dispose of transferee trust assets.

(C) A beneficiary who is the sole permissible recipient of income and principal from the transferee trust or who has the right to demand a distribution of, or withdraw, substantially all of the assets from the transferee trust.

(D) A grantor or settlor who has the right to revoke the transferee trust or otherwise withdraw the assets of the transferee trust.

(E) A beneficial owner of any legal entity that holds at least one of the positions in the transferee trust described in paragraphs (n)(1)(ii)(A) through (D) of this section, except when the legal entity meets the criteria set forth in paragraphs (n)(10)(ii)(A) through (P) of this section. Beneficial ownership of any such legal entity is determined under 31 CFR 1010.380(d), utilizing the criteria for beneficial owners of a reporting company.

(F) A beneficial owner of any trust that holds at least one of the positions in the transferee trust described in paragraphs (n)(1)(ii)(A) through (D) of this section, except when the trust meets the criteria set forth in paragraphs (n)(11)(ii)(A) through (D). Beneficial ownership of any such trust is determined under this paragraph (n)(1)(ii), utilizing the criteria for beneficial owners of a transferee trust.

(2) *Closing or settlement agent.* The term ''closing or settlement agent'' means any person, whether or not acting as an agent for a title agent or company, a licensed attorney, real estate broker, or real estate salesperson, who for another and with or without a commission, fee, or other valuable consideration and with or without the intention or expectation of receiving a commission, fee, or other valuable consideration, directly or indirectly, provides closing or settlement services incident to the transfer of residential real property.

(3) *Closing or settlement statement.* The term ''closing or settlement statement'' means the statement of receipts and disbursements prepared for the transferee for a transfer of residential real property.

(4) *Date of closing.* The term ''date of closing'' means the date on which the transferee entity or transferee trust receives an ownership interest in residential real property.

(5) *Non-financed transfer.* The term ''non-financed transfer'' means a transfer that does not involve an extension of credit to all transferees that is:

(i) Secured by the transferred residential real property; and

(ii) Extended by a financial institution that has both an obligation to maintain an anti-money laundering program and an obligation to report suspicious transactions under this chapter.

(6) *Ownership interest.* The term ''ownership interest'' means the rights held in residential real property that are demonstrated:

(i) Through a deed, for a reportable transfer described in paragraph (b)(1)(i), (ii), or (iii) of this section; or

(ii) Through stock, shares, membership, certificate, or other contractual agreement evidencing ownership, for a reportable transfer described in paragraph (b)(1)(iv) of this section.

(7) *Recordation office.* The term ''recordation office'' means any State, local, Territory and Insular Possession, or Tribal office for the recording of reportable transfers as a matter of public record.

(8) *Signing individual.* The term ''signing individual'' means each individual who signed documents on behalf of the transferee as part of the reportable transfer. However, it does not include any individual who signed documents as part of their employment with a financial institution that has both an obligation to maintain an anti-money laundering program and an obligation to report suspicious transactions under this chapter.

(9) *Statutory trust.* The term ''statutory trust'' means any trust created or authorized under the Uniform Statutory Trust Entity Act or as enacted by a State. For the purposes of this subpart, statutory trusts are transferee entities.

(10) *Transferee entity.* (i) Except as set forth in paragraph (n)(10)(ii) of this section, the term ''transferee entity'' means any person other than a transferee trust or an individual.

(ii) A transferee entity does not include:

(A) A securities reporting issuer defined in 31 CFR 1010.380(c)(2)(i);

(B) A governmental authority defined in 31 CFR 1010.380(c)(2)(ii);

(C) A bank defined in 31 CFR 1010.380(c)(2)(iii);

(D) A credit union defined in 31 CFR 1010.380(c)(2)(iv);

(E) A depository institution holding company defined in 31 CFR 1010.380(c)(2)(v);

(F) A money service business defined in 31 CFR 1010.380(c)(2)(vi);

(G) A broker or dealer in securities defined in 31 CFR 1010.380(c)(2)(vii);

(H) A securities exchange or clearing agency defined in 31 CFR 1010.380(c)(2)(viii);

(I) Any other Exchange Act registered entity defined in 31 CFR 1010.380(c)(2)(ix);

(J) An insurance company defined in 31 CFR 1010.380(c)(2)(xii);

(K) A State-licensed insurance producer defined in 31 CFR 1010.380(c)(2)(xiii);

(L) A Commodity Exchange Act registered entity defined in 31 CFR 1010.380(c)(2)(xiv);

(M) A public utility defined in 31 CFR 1010.380(c)(2)(xvi);

(N) A financial market utility defined in 31 CFR 1010.380(c)(2)(xvii);

(O) An investment company as defined in section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(a)) that is registered with the Securities and Exchange Commission under section 8 of the Investment Company Act (15 U.S.C. 80a–8); and

(P) Any legal entity controlled or wholly owned, directly or indirectly, by an entity described in paragraphs (n)(10)(ii)(A) through (O) of this section.

(11) *Transferee trust.* (i) Except as set forth in paragraph (n)(11)(ii) of this section, the term ''transferee trust'' means any legal arrangement created when a person (generally known as a grantor or settlor) places assets under the control of a trustee for the benefit of one or more persons (each generally known as a beneficiary) or for a specified purpose, as well as any legal arrangement similar in structure or function to the above, whether formed under the laws of the United States or a foreign jurisdiction. A trust is deemed to be a transferee trust regardless of whether residential real property is titled in the name of the trust itself or in the name of the trustee in the trustee's capacity as the trustee of the trust.

(ii) A transferee trust does not include:

(A) A trust that is a securities reporting issuer defined in 31 CFR 1010.380(c)(2)(i);

(B) A trust in which the trustee is a securities reporting issuer defined in 31 CFR 1010.380(c)(2)(i);

(C) A statutory trust; or

(D) An entity wholly owned by a trust described in paragraphs (n)(11)(ii)(A) through (C) of this section.

§ 1031.321 [Reserved]

Andrea M. Gacki,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2024–19198 Filed 8–28–24; 8:45 am]

BILLING CODE 4810–02–P

FEDERAL REGISTER

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Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1
Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2024–0051, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2024–07; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2024–07. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC.

DATES: For effective dates see the separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

RULES LISTED IN FAC 2024–07

Item	Subject	FAR case	Analyst
I	Reference to Penalty Threshold	2023–005	Jones.
II	Technical Amendments.		

ADDRESSES: The FAC, including the SECG, is available at *https://www.regulations.gov.*

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2024–07 amends the FAR as follows:

Item I—Reference to Penalty Threshold (FAR Case 2023–005)

This final rule amends the FAR to align the penalties language in the FAR lobbying provision at FAR 52.203–11 with the equivalent penalties language in the FAR lobbying clause at FAR 52.203–12. FAR 52.203–11(e) cites to the underlying authority at 31 U.S.C. 1352 and specifies that an imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

Item II—Technical Amendments

Administrative changes are made at FAR 4.1202, 19.102, and 19.309.

William F. Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Federal Acquisition Circular (FAC) 2024–07 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2024–07 is effective August 29, 2024 except for Items I and II, which are effective September 30, 2024.

John M. Tenaglia,

Principal Director, Defense Pricing and Contracting, Department of Defense.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Karla Smith Jackson,

Assistant Administrator for Procurement, Senior Procurement Executive/Deputy CAO, National Aeronautics and Space Administration.

[FR Doc. 2024–19254 Filed 8–28–24; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2024–07; FAR Case 2023–005, Item I; Docket No. FAR–2023–0005; Sequence No. 1]

RIN 9000–AO53

Federal Acquisition Regulation: Reference to Penalty Threshold

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending a Federal Acquisition Regulation (FAR) provision to align the penalties language with the equivalent penalties language at an associated FAR clause.

DATES: Effective September 30, 2024.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Malissa Jones, Procurement Analyst, at 571–882–4687 or by email at *malissa.jones@gsa.gov.* For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2024–07, FAR Case 2023–005.

SUPPLEMENTARY INFORMATION:

I. Background

Lobbying coverage in the FAR is based on section 319 of Public Law 101–121, which added 31 U.S.C. 1352. Section 1352 prohibits the use of appropriated funds to influence certain persons in connection with awarding or modifying a contract and includes civil penalties. Office of Management and Budget (OMB) guidance was published December 20, 1989 (54 FR 52306), which directed a FAR rule and an OMB nonprocurement common rule be published with the same substance. A FAR rule was published on January 20, 1990 (55 FR 3190), which has been occasionally revised since then. The penalties section of the FAR provision at 52.203–11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions,

contains language citing the dollar figures at 31 U.S.C. 1352. The penalties section of the FAR clause at 52.203–12, Limitation on Payments to Influence Certain Federal Transactions, refers to 31 U.S.C. 1352 itself. These should be written the same way.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the FAR is 41 U.S.C. 1707. Subsection (a)(1) of 41 U.S.C. 1707 requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it does not have a significant effect or impose any new requirements on contractors or offerors. The rule simply amends FAR provision 52.203–11(e) to match the language at FAR clause 52.203–12(e) which points back to the civil penalties provided in 31 U.S.C. 1352.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Products (Including Commercially Available Off-the-Shelf (COTS) Items), or for Commercial Services

This rule amends FAR provision 52.203–11(e) to match the language at FAR clause 52.203–12(e), which points back to the civil penalties provided in 31 U.S.C. 1352. This rule does not impose any new requirements on contracts at or below the SAT, or to acquisitions for commercial products and commercial services, including COTS items.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 (as amended by E.O. 14094) and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

Pursuant to the Congressional Review Act DoD, GSA, and NASA will send this rule to each House of the Congress and to the Comptroller General of the United States. The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget has determined that this rule does not meet the definition in 5 U.S.C. 804(2).

VI. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 41 U.S.C. 1707(a)(1) (see section II. of this preamble), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

VII. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

List of Subjects in 48 CFR Part 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

■ 2. Amend section 52.203–11 by revising the date of the provision and paragraph (e) to read as follows:

52.203–11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

* * * * *

Certification and Disclosure Regarding Payments To Influence Certain Federal Transactions (SEP 2024)

* * * * *

(e) *Penalties.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to civil penalties as provided in 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(End of provision)

[FR Doc. 2024–19173 Filed 8–28–24; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 4 and 19

[FAC 2024–07; Item II; Docket No. FAR–2024–0052; Sequence No. 3]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes administrative changes to 48 CFR parts 4 and 19. The date change is to provide additional time to implement the policy addressing the assignment of North American Industry Classification System codes to orders placed under multiple-award contracts, as covered by changes made by FAR Case 2014–002, Set-Asides Under Multiple-Award Contracts, 85 FR 11746.

DATES: Effective: September 30, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Lois Mandell, Regulatory Secretariat Division (MVCB), at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2024–07, Technical Amendments.

SUPPLEMENTARY INFORMATION:

This document makes editorial changes to 48 CFR parts 4 and 19.

List of Subjects in 48 CFR Parts 4 and 19

Government procurement.

William F. Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 4 and 19 as set forth below:

■ 1. The authority citation for 48 CFR parts 4 and 19 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 4 and 10 U.S.C. chapter 137 legacy provisions (see 10 U.S.C. 3016); and 51 U.S.C. 20113.

PART 4—ADMINISTRATIVE AND INFORMATION MATTERS

■ 4.1202[Amended]

■ 2. Amend section 4.1202 by removing from paragraph (a) introductory text the date ''October 1, 2025'' and adding the date ''October 1, 2028'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

19.102 [Amended]

■ 3. Amend section 19.102 by removing from paragraphs (b)(2)(i) and (b)(2)(ii) introductory text the date ''October 1, 2025'' and adding the date ''October 1, 2028'' in their places, respectively.

19.309 [Amended]

■ 4. Amend section 19.309 by removing from paragraphs (a)(3) and (c)(2) the date ''October 1, 2025'' and adding the date ''October 1, 2028'' in their places, respectively.

[FR Doc. 2024–19174 Filed 8–28–24; 8:45 am]

BILLING CODE 6820–6EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR–2024–0051, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2024–07; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide (SECG).

SUMMARY: This document is issued under the joint authority of DoD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2024–07, which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2024–07, which precedes this document.

DATES: August 29, 2024.

ADDRESSES: The FAC, including the SECG, is available at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2024–07 and the FAR Case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared.

RULES LISTED IN FAC 2024–07

Item	Subject	FAR case	Analyst
I	Reference to Penalty Threshold	2023–005	Jones.
II	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2024–07 amends the FAR as follows:

Item I—Reference to Penalty Threshold (FAR Case 2023–005)

This final rule amends the FAR to align the penalties language in the FAR lobbying provision at FAR 52.203–11 with the equivalent penalties language in the FAR lobbying clause at FAR 52.203–12. FAR 52.203–11(e) cites to the underlying authority at 31 U.S.C. 1352 and specifies that an imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

Item II—Technical Amendments

Administrative changes are made at FAR 4.1202, 19.102, and 19.309.

William F. Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2024–19175 Filed 8–28–24; 8:45 am]

BILLING CODE 6820–EP–P

FEDERAL REGISTER

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Part IV

Department of Education

34 CFR Parts 75, 76, 77, et al.
Education Department General Administrative Regulations and Related Regulatory Provisions; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 75, 76, 77, 79, and 299

RIN 1875–AA14

[Docket ID ED–2023–OPEPD–0110]

Education Department General Administrative Regulations and Related Regulatory Provisions

AGENCY: Office of Planning, Evaluation and Policy Development, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends the Education Department General Administrative Regulations (EDGAR) and associated regulatory provisions to update, improve, and better align them with U.S. Department of Education (Department) implementing statutes and other regulations and procedures.

DATES: These regulations are effective September 30, 2024. The incorporation by reference of certain publications listed in this final rule is approved by the Director of the **Federal Register** as of September 30, 2024. The incorporation by reference of the other material listed in this final rule was approved by the Director of the **Federal Register** as of July 31, 2017, and October 5, 2020.

FOR FURTHER INFORMATION CONTACT: Kelly Terpak, U.S. Department of Education, 400 Maryland Avenue SW, Room 4C212, Washington, DC 20202. Telephone: (202) 245–6776. Email: *EDGAR@ed.gov*.

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of this Regulatory Action: The last major update to EDGAR was in 2013. Given that EDGAR serves as the foundational set of regulations for the Department, we have reviewed EDGAR, evaluated it for provisions that, over time, have become outdated, unnecessary, or inconsistent with other Department regulations, and identified ways in which EDGAR could be updated, streamlined, and otherwise improved. Specifically, we amend parts 75, 76, 77, 79, and 299 of title 34 of the Code of Federal Regulations.

Summary of Major Provisions of This Regulatory Action

The final EDGAR provisions:

- Make technical updates to refer to up-to-date statutory authorities, remove outdated terminology, use consistent references, and eliminate obsolete cross-references.
- Align EDGAR with updates in the most recent reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA). For example, updates to EDGAR revise the tiers of evidence to incorporate and generally parallel those in the ESEA and specify the procedures used to give special consideration to an application supported by evidence in § 75.226.
- Clarify, streamline, and expand the selection criteria the Secretary may use to make discretionary awards under § 75.210.
- Clarify procedural approaches, such as those related to making continuation awards under § 75.253, and exceptions to the typical process for new awards under § 75.219, such as if a grant application had been mishandled.
- Improve public access to research and evaluation related to Department-funded projects by requiring, under §§ 75.590 and 75.623, that each grantee that prepares an evaluation or a peer-reviewed scholarly publication as part of the grant award or on the basis of grant-funded research make the final evaluation report or peer-reviewed scholarly publication available through the Education Resource Information Center (ERIC), which is the current practice of the Department's Institute of Education Sciences (IES).
- Expand and clarify flexibility for the Department in administering its grants programs, including by—
  - Providing the Department the option to require applicants under grant programs to include a logic model or other conceptual framework supporting their proposed project under § 75.112;
  - Replacing the definition in § 75.225 of ''novice applicant'' with a broader definition of ''new potential grantee,'' to allow additional flexibility to give special consideration to such grantees and to increase equity in the applicant pool and recipients of Department funds;
  - Allowing the Department to require a grantee to conduct an independent evaluation of its project and make the results of such an evaluation public under § 75.590;
  - Defining ''independent evaluation'' under § 77.1(c);
  - Clarifying for the first time that, under § 76.50, where not prohibited by law, regulation, or the terms and conditions of the grant award, State agencies have subgranting authority;
  - Allowing States flexibility under § 76.140 to adopt a process for amending a State plan that is distinct from the process used for initial approval; and
  - Clarifying the hearing and appeal process under § 76.401 for subgrants of State-administered formula grant programs, including by clarifying that aggrieved applicants must allege that a specific Federal or State statute or regulation has been violated.

Costs and Benefits: As further detailed in the *Regulatory Impact Analysis* section, the benefits of these final regulations will outweigh any associated costs to States, local educational agencies (LEAs), and other Department applicants and grantees. The final regulations will, in part, update terminology to align with applicable statutes and regulations. Many of the adjustments will support the Department in selecting high-quality grantees and those grantees in ensuring the effectiveness and continuous improvement of their projects. These changes include, for example, adding selection criteria that apply only to programs that elect to use them, as announced in a notice inviting applications (NIA), and clarifying the language in selection criteria for applicants and peer reviewers. Please refer to the *Regulatory Impact Analysis* section of this document for a more detailed discussion of costs and benefits. The Administrator of the Office of Information and Regulatory Affairs (OIRA) has determined this to be a significant regulatory action under Executive Order 12866, as amended most recently by Executive Order 14094, and therefore has been subject to review by OIRA.

Supplementary Information—General: On January 11, 2024, the Secretary published a Notice of Proposed Rulemaking (NPRM) for these amendments in the **Federal Register** (89 FR 1982).

There are differences between some of the selection criteria and definitions proposed in the NPRM and those established in these final regulations, as discussed in the *Analysis of Comments and Changes* section below.

We recognize that the Office of Management and Budget (OMB) updated the Uniform Administrative Requirements, Cost Principles, and Audit Requirements (the Uniform Guidance) on April 22, 2024 (89 FR 30046). Many of the changes in EDGAR align with the goals behind the changes in the Uniform Guidance, and the Department will continue to review EDGAR, as needed, to ensure alignment with the Uniform Guidance.

Incorporation by Reference: Section 75.616 incorporates by reference the American Society of Heating,

Refrigerating, and Air Conditioning Engineers (ASHRAE) Standard 90.1–2022. ASHRAE is included in the construction section focused on energy conservation and has been included in EDGAR for more than 30 years. The ASHRAE standards are the industry leading standards and are relevant to the construction regulations in this section of EDGAR because grantees need to know the current standard with which they must comply. Standard 90.1 has been a benchmark for commercial building energy codes in the United States, and a key basis for codes and standards around the world, for almost half a century. This standard provides the minimum requirements for energy-efficient design of most sites and buildings, except low-rise residential buildings. It offers, in detail, the minimum energy efficiency requirements for design and construction of new sites and buildings and their systems, new portions of buildings and their systems, and new systems and equipment in existing buildings, as well as criteria for determining compliance with these requirements. It is an indispensable reference for engineers and other professionals involved in design of buildings, sites, and building systems. This standard is available to the public at *www.ashrae.org/technical-resources/bookstore/standard-90-1,* and a read-only version is available at *https://www.ashrae.org/technical-resources/standards-and-guidelines/read-only-versions-of-ashrae-standards*. This final rule also will remove outdated versions of the ASHRAE standard from § 75.616.

Section 77.1 incorporates by reference the What Works Clearinghouse (WWC) Procedures and Standards Handbook, Version 5.0. The purpose of the WWC is to review and summarize the quality of existing research in educational programs, products, practices, and policies. We incorporate the Handbook, which provides a detailed description of the standards and procedures of the WWC, by reference. The Handbook is available to interested parties at *https://ies.ed.gov/ncee/wwc/Handbooks*. As the Handbook is available as a free download, it is reasonably available to the public. The Version 5.0 Handbook includes a new Chapter I, Overview of the What Works Clearinghouse and Its Procedures and Standards and aligns the flow of content with the study review process. Additionally, it no longer allows for topic-specific customization of the standards, aligns its effectiveness ratings with the evidence definitions in § 77.1(c), and describes other protocols for specific study designs. More details are available at *https://ies.ed.gov/ncee/WWC/Docs/referenceresources/Final_HandbookSummary-v5-0-508.pdf*.

The WWC is an initiative of the Department's National Center for Education Evaluation and Regional Assistance, within IES, which was established under the Education Sciences Reform Act of 2002 (Title I of Pub. L. 107–279). The WWC is an important part of the Department's strategy to use rigorous and relevant research, evaluation, and statistics to inform decisions in the field of education. The WWC provides critical assessments of scientific evidence on the effectiveness of education programs, policies, products, and practices (referred to as ''interventions'') and a range of publications and tools summarizing this evidence. The WWC meets the need for credible, succinct information by reviewing research studies, assessing the quality of the research, summarizing the evidence of the effectiveness of interventions on student outcomes and other outcomes related to education, and disseminating its findings broadly.

This handbook is available to the public at *https://ies.ed.gov/ncee/wwc/handbooks#procedures*.

Public Comment: In response to our invitation in the NPRM, 28 unique parties submitted comments on the proposed regulations. We group major issues according to subject.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the regulations since publication of the NPRM follows. Generally, we do not address technical or minor comments or comments that are not relevant to the proposed changes in the NPRM.

General Comments

Comments: Multiple commenters offered general support for the proposed changes to EDGAR and appreciated the specificity of the proposed changes and the removal of conflicting regulations. One commenter appreciated the focus on using and building evidence in the Department's grant programs. One commenter recommended finalizing the updates to EDGAR in time for fiscal year (FY) 2025 grant competitions. Additionally, commenters appreciated the Department's effort to reduce barriers for underserved populations.

Multiple commenters appreciated the focus on continuous improvement in the proposed changes and recommended additional locations for such focus in provisions governing discretionary and formula awards. One commenter urged the Department to ensure it sets clear expectations in its NIAs so that applicants with the greatest need and the opportunity for greatest impacts receive funding. The commenter specifically called for clear expectations by the Department in how it will continuously improve its grantmaking efforts, including how the Department clearly communicates the selection criteria in its NIAs, how those criteria are scored, and expectations for grantee performance.

Discussion: We appreciate the support for the proposed changes and agree that they will provide specificity and clarity regarding Department processes and the purpose of these regulations and will better serve the needs of underserved populations. We agree on the importance of continuous improvement and address comments related to specific proposed additions in the relevant sections below. The proposed revisions to § 75.210, discussed further below, are intended to strengthen expectations around need and significance and how applicants address those selection criteria.

Lastly, we appreciate the value of these final regulations for upcoming and future grant competitions. We will consider approaches to using these criteria that advance the goal of best positioning applicants and grantees to continuously improve their practices while implementing their projects. With respect to grantmaking expectations, the Department continues to focus on simplifying NIAs and clarifying the focus on outcomes for communities served.

Changes: None.

34 CFR Part 75—Direct Grant Programs

Sections 75.101 and 75.102 Information in the Application Notice That Helps An Applicant Apply; Deadline Date for Applications

Comments: One commenter encouraged the Department to consider additional revisions to EDGAR that were not part of the NPRM, focused on the Department's outreach efforts when announcing grant competitions and support to applicants during the application period. Specifically, the commenter proposed revisions to §§ 75.100 through 75.102 to add LEA outreach efforts and to specify longer application periods (90 days or more) for competitions where LEAs are eligible applicants.

Discussion: The Department recognizes the importance of outreach in its discretionary grant competitions. Outreach and technical assistance efforts are a part of the Department's ongoing grant planning conversations,

and the Department actively pursues outreach through stakeholders and partner organizations, online forums, and grant competition summary documents such as brochures. Outreach also includes technical assistance for applicants during the application period, including through webinars and other efforts to ensure applicant questions are addressed. The Department shares the interest in continuously improving outreach efforts to support increased awareness of grant opportunities and to ensure all potential grantees are competitive. We appreciate the recommendation to specify outreach efforts in §§ 75.100 and 75.101 but decline the revisions proposed by commenters because the Department needs to determine the best approach for each program based on the potential applicants, lessons learned from previous efforts, and new and creative approaches.

Regarding the proposed 90-day minimum application period in § 75.102 for competitions where LEAs are eligible applicants, we are continually looking for ways to ensure a sufficient grant application period for our competitions, supporting efforts to make grant awards earlier in the year, and also ensuring that grant awards are made early enough to support efficient implementation timelines and to ensure appropriated funds do not lapse. Given the complexity of grant competitions, including those where LEAs are the eligible applicants, the Department needs discretion in establishing appropriate deadlines and therefore declines to make this change.

Changes: None.

Section 75.110 Information Regarding Performance Measurement

Comments: We received two comments on the proposed revisions to § 75.110 regarding performance measures. Both commenters generally supported the proposed revisions and the Department's effort to clearly differentiate between program and project-specific performance measures, and the commenters believe the proposed changes will lead to better quality data. The commenters proposed adding a new paragraph (d) to § 75.110 allowing applicants and grantees to propose alternative measures, baseline data, or targets related to program goals and objectives.

Discussion: We appreciate the support for the proposed revisions to § 75.110. Regarding the proposed paragraph (d), applicants and grantees already are permitted to propose alternative performance measures, baseline data, and targets in the form of project-specific measures. See § 75.110(a). As such, we do not think the additional paragraph is necessary.

Changes: None.

Section 75.112 Include a Proposed Project Period and a Timeline

Comments: Multiple commenters offered support for the proposed revisions to § 75.112, stating that the benefit of a logic model—requiring applicants to connect project activities to outcomes outweighed any additional cost or time in its preparation. One commenter noted the value of connecting the outcomes in the logic model with a project's performance measures, and another commenter mentioned how logic models help summarize the project's intent, activities, and outcomes.

Multiple commenters recommended redesignating proposed paragraph (c) as a new paragraph (d), adding a new paragraph (c) that would require a continuous improvement plan, and expanding redesignated paragraph (d) to require a conceptual framework, which is broader than a logic model and accounts for other ways an applicant can demonstrate a connection between inputs and outcomes. The commenters recommended including a continuous improvement requirement so that applicants would make clear how they would use research, data, community engagement, and other feedback to inform the grant project.

A few commenters raised concerns about the proposed requirement for a logic model in § 75.112, worried it would potentially limit applications, especially applications from smaller, less experienced entities who lack resources (both time and funding) to apply for Federal grant funds and add an application requirement that, they believe, would not result in substantive improvement in the quality of the application. The commenters felt such applicants may be unsure about how to articulate their project's reasoning in the form of a logic model or about using a specific template, and were concerned about the amount of time and burden associated with using a template. In addition, these commenters raised concerns that the logic model might satisfy the requirement but might not actually be aligned with the proposed project or the evaluation plan for the project, including consideration of the local context. They also stated that logic models are often developed by grant writers, which would favor entities that can afford such a writer.

Discussion: We appreciate the commenters' feedback on the proposed revisions to § 75.112. We note that the inclusion of a logic model as an option in EDGAR does not mean that all grant programs will require one. We consider several things when designing a grant competition, including the purpose of the program, the types of applicants and their experience in applying for Department grants, as well as which selection criteria to use for the competition.

We agree with the commenters interested in ensuring grantees have continuous improvement plans for their projects. The final selection criteria in § 75.210 include factors that evaluate the elements of an applicant's logic model, such as how inputs are related to outcomes and the likely benefit to the intended recipients, as indicated by the logic model, which address the commenters' concern about alignment with the proposed project and its intended outcomes. The final selection criteria in § 75.210 also include factors requiring applicants to consider how the proposed project design focuses on continuous improvement efforts, such as establishing targets, using data, and gathering community member and partner input to measure progress and inform continuous improvement. We are revising paragraph (b) to include the requirement to discuss continuous improvement in relation to the logic model or within the applicant's project narrative.

We also agree with the commenters' suggestion that broadening the language beyond ''logic model'' allows for other frameworks that connect activities and outcomes, without requiring a specific logic model format, and therefore added ''conceptual framework''.

The Department currently does not have a specific logic model template. If a logic model is used in a particular grant competition, the Department will provide technical assistance and resources to help applicants design their logic model, which may include the Regional Educational Laboratory Program's (REL Pacific) Education Logic Model Application, available at *https://ies.ed.gov/ncee/rel/Products/Region/pacific/Resource/100677,* and other resources including *https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014025.pdf, https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf,* and *https://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2015057.pdf.* The Department agrees with the commenter that it is important to develop these resources to support all applicants, and we value the role of partners in the education community who provide resources to support the development of logic models. Partners are a key element of supporting

evidence-based policymaking in our shared efforts to improve opportunities and outcomes for learners.

Changes: We have revised paragraph (b) in § 75.112 to add information about what details related to continuous improvement must be addressed in the project narrative as well as added ''project narrative'' to the title of § 75.112, and revised paragraph (c) to include a ''conceptual framework.''

Section 75.125 Submit a Separate Application to Each Program

Comments: Two commenters proposed a revision to § 75.125 to allow the Secretary to establish a common application process across multiple grant programs. The commenters were interested in making it easier for applicants to access Federal funds and to streamline application requirements.

Discussion: We share the commenters' interest in reducing applicant burden. The Department has the authority to establish a common application process where appropriate, taking into account the statutes, purposes, and requirements of each grant program, so specifically recognizing such authority in the regulations is not necessary.

Changes: None.

Section 75.210 General Selection Criteria

Comments: We received multiple comments on the proposed revisions to the selection criteria. Commenters were generally supportive. Some proposed revisions or additional selection factors, which are described further below. Multiple commenters supported linking the selection criteria to the components of an applicant's logic model. Commenters also appreciated the focus on underserved populations when addressing the need for, and significance of, a proposed project.

Regarding paragraph (a) (''need for the project''), some commenters suggested including language to emphasize the comprehensiveness of the data required in factor (i), which considers how the applicant's data demonstrate the issue, challenge, or opportunity to be addressed by the project, and language requiring coordination with other programs and services. Some commenters also expressed support for factor (iv), which considers the extent to which the project focuses on serving or addressing the needs of underserved populations.

Regarding paragraph (b) (''significance''), commenters recommended revisions to factors (v), (xi), and (xvii) that focused on measurable improvement, data infrastructure, and data analysis, citing the importance of using data to determine need and significance. Another commenter expressed general support for factor (xii) and its focus on dissemination of information beyond the individual grant so others can learn from these Federal investments. One commenter sought clarity about the meaning of the word ''innovative'' with respect to the factors in paragraph (b), concerned that peer reviewers' understanding of the term could widely vary.

Regarding paragraph (c) (''quality of the project design''), two commenters proposed revisions to factors (v) and (x) to emphasize the use of administrative data and reusable data tools in project design. Another commenter expressed general support for the focus on formative research in factor (xx) and the focus on continued refinement of a project based on initial findings. One commenter proposed a new factor for paragraph (c) focused on sharing the research design, methods, and preliminary outcomes early in the project timeline to ensure the quality of the research. One commenter appreciated the focus on meaningful community engagement in factor (xviii). One commenter raised a general concern about utilizing too many factors from paragraph (c) in an NIA, worried it would complicate the NIA and disadvantage less experienced applicants.

With respect to paragraph (d) (''quality of project services''), two commenters proposed a revision to factor (xii) to include how data from other social services or programs will be utilized to inform the project services.

We received multiple comments regarding paragraph (e) (''quality of the project personnel''). Specifically, multiple commenters appreciated the focus of ensuring diverse perspective in factor (iv); commenters were concerned, however, that an emphasis on having the project team reflect the demographics of project participants might limit other personnel with relevant experience, or that personnel might not be willing to share their demographics. One commenter proposed inclusion of ''proximate, lived experiences'' to broaden the focus of the factor. Another commenter was concerned that this factor might result in a researcher that is considered to be project personnel prioritizing samples that are reflective of their own demographics. One commenter proposed a new factor under paragraph (e) on project personnel using technology for data collection and analysis.

In paragraph (f) (''adequacy of resources''), one commenter appreciated factor (iv) and its focus on the reasonableness of costs in relation to people served, and two commenters proposed a new factor focused on ''leveraging shared data and evaluation infrastructure,'' consistent with the commenters' recommendations of including a focus on data throughout the selection criteria.

In paragraph (g) (''quality of the management plan''), two commenters recommended a revision to factor (ii) to include ''shared data and evaluation infrastructure,'' consistent with the commenter's interest in seeing the use of data across the selection criteria.

We received multiple comments on paragraph (h) (''quality of the evaluation plan or other evidence-building''). One commenter was concerned about the factors' wide range in rigor, especially in relation to evaluation design, and sought clarification on the meaning of an independent evaluation, specifically whether the evaluator could be from a separate unit of the same organization. Two commenters proposed a new factor on including administrative data and the ''depth of insights'' from using such data in the project evaluation, citing the importance of such data in continuous improvement efforts.

One commenter offered general support for paragraph (i) (''strategy to scale''), understanding the importance of local context for scaling strategies. One commenter sought clarity on how ''efficiency'' is defined for purposes of the paragraph (i) factors. Two commenters proposed a new factor in paragraph (i) on data tools and infrastructure, continuing to emphasize the importance of using data, and building an infrastructure for data, in Department grant programs and grant projects.

Discussion: We appreciate the overall positive feedback on § 75.210 and commenters' proposed revisions. We agree that it is important to focus on underserved populations and to tie the selection criteria to an applicant's logic model.

Regarding the proposed revisions to paragraph (a) factor (i), while it is important for applicants to provide data to support the need for the project, it would be difficult to meaningfully define ''comprehensive'' for all contexts, as the type of level of data varies based on a program's purpose and the population to be served, and we note that there are other selection criteria that incorporate the concept of program or service coordination, such as the coordination with other Federal investments. As such, we are not

including any of the proposed revision the factors under paragraph (a).

Under paragraph (b), we appreciate the general support for the dissemination focus in factor (xii). We agree that it is important for improvement to be ''measurable'' in (v) and that ''data infrastructure'' fits within the purpose of factor (xi), and revised those factors in paragraph (b) accordingly. As for the proposed revisions to factor (xvii) to incorporate a data analysis tool, we determined this would more appropriately fit within paragraph (i) (''strategy to scale''), and we have included a proposed a new factor (x) under paragraph (i) related to data tools and techniques. We decline to adopt a definition of ''innovative'' for the purposes of paragraph (b), because the meaning of that term could vary based on program purpose and context, and it's important for individual programs to decide its meaning. In some programs, for example, innovative may mean something that is novel, while in others it may refer to a program aspect that is specific to the population or setting to be served.

Regarding the comment about using too many factors in an NIA from paragraph (c), we agree that it is important to consider, when reviewing which selection criteria to include an NIA, which criteria and how many factors are necessary, weighing applicant burden and the peer review process as we make these determinations but are not making and changes, as determination regarding the appropriate number of selection criteria and factors are determined for each grant competition. We support the proposed revision to factor (v) under paragraph (c), as we agree with the use of administrative data to support continuous improvement, and we have revised paragraph (c) accordingly. We decline to revise factor (x) to require use of administrative data, because not all grant programs or projects result in the creation of data tools, and we do not want to unnecessarily restrict the use of this factor. We appreciate the support for factors (xviii) and (xx) and agree that community engagement, performance feedback, and formative data are important to continuous improvement efforts and project success. We decline to adopt the proposed new factor related to early registration of research design, because we do not think this is a marker of quality related to project design at the application phase. Rather, this issue is best handled in post-award monitoring.

We decline the proposed revision to factor (xii) in paragraph (d) to include how data from other programs will inform project services, because focusing on other programs dilutes the central purpose of this factor, which is ensuring that project services align with the needs of the target population.

Regarding comments on paragraph (e), factor (iv) is intended to encourage projects that hire individuals who can relate to the life experience, assets, and needs of the target population; we recognize, however, that the demographics language as proposed could unnecessarily limit how those qualities are determined. As such, we have revised factor (iv) to include consideration of the lived or relevant experiences of those in the target population to allow applicants the flexibility to select a project team that can best serve project participants, taking a range of relevant circumstances into account, and have made a similar revision regarding lived experiences in factor (ii). We also took into consideration, across factors, the appropriate use of ''target population'' and ''project participants'' within a given factor. Regarding the comment about a researcher prioritizing study samples that reflect their own demographic characteristics during a project evaluation, we think this factor relates to the qualifications and relevant experiences of the personnel of the project, not about the design of the evaluation and any potential biases in the evaluation design. While we appreciate the suggestion to add a factor emphasizing the use of technology to support data collection and analysis, we have determined that this concept is more appropriate as part of the ''strategy to scale'' factors in paragraph (i), and we have added a new factor (x) in paragraph (i) to that effect.

We appreciate the support for paragraph (f) and understand the importance of shared data infrastructure. As noted above, we have determined that this concept is more appropriate as part of the ''strategy to scale'' factors in paragraph (i), and we have added a factor (x) related to data tools and techniques in paragraph (i).

In paragraph (g), we recognize the importance of the management plan utilizing data but do not think it is necessary to add the data source or the infrastructure around the data, as it is important that the factor should be focused on the overall use of quantitative and qualitative data without creating further complications for applicants or peer reviewers.

We understand that expectations related to the project evaluation in the paragraph (h) factors differ in terms of rigor; however, variance in the evaluation factors is intentional to account for reasonable differences in a program's purpose, the size of a grant, and complexity of the project. Regarding the meaning of independent evaluation, the NPRM included a proposed definition of ''independent evaluation'' that is adopted in § 77.1(c) of these final regulations, and that definition specifies that the evaluation must be independent from the design and implementation of the project component, which could allow for a separate unit from an organization, as long as that unit is not involved in the development or implementation. As to the proposed new factor related to use of administrative data, we agree there is value in mentioning the use of administrative data and have added a new factor (xvi) to gauge the extent to which the evaluation will access and link high-quality administrative data from authoritative sources to improve evaluation quality and comprehensiveness. Because this language comprehensively encompasses use of high-quality administrative data, however, we decline to also include the commenter's proposed ''depth of insights'' language.

With respect to paragraph (i), we appreciate the positive comments recognizing the importance of scaling strategies and taking local needs and context into consideration when scaling. We also agree that data and infrastructure tools are important to scaling efforts. To capture these important tools and additional proposed data-related factors in one place, we have added a new factor (x), which will consider the extent to which the project will create reusable data and evaluation tools and techniques that facilitate expansion and support continuous improvement. Consolidating the administrative data proposals into one factor maximizes the impact of individual selection criteria, both in terms of how applicants respond and how peer reviewers assess an application. We decline the commenter's request to define ''efficiency'' for the purposes of paragraph (i) because efficiency may vary within a specific Department grant program or individual grant project, and we want to retain flexibility in the application of that term. For example, efficiency in one grant program and grant project might relate to the cost per participant, while in another it might relate to identifying the project component(s) most necessary to maintain at scale.

We also undertook a review of the factors and selection criteria to ensure consistency, taking into consideration the comments received. As a result of this review, we made minor edits for

clarity and consistency. These minor edits include, for example: under ''quality of the project design,'' using the term ''includes'' instead of ''encourages;'' under ''quality of project personnel,'' adding ''the extent to which,'' to better allow peer reviewers to assess the quality of an applicant's response to the selection criteria and specific factors; under ''adequacy of resources,'' connecting the costs more clearly with potential replication; under ''quality of the project evaluation or other evidence-building,'' aligning analytic strategies with project components; and under ''strategy to scale,'' aligning the introductory paragraphs with those of the other selection criteria.

Changes: In paragraph (a), we moved ''close gaps in the educational opportunity'' to the end of factor (iii).

In paragraph (b), we added ''educational challenges'' to factor (iii), we added ''measurable'' to factor (v), ''entities'' to factor (vi), ''regional'' to factor (viii), ''more'' to factor (x), ''or data infrastructure'' to factor (xi), and ''development of'' to factor (xvii).

In paragraph (c), we ensured consistency in the use of ''logic model'' and ''conceptual framework'' in factors (iii) and (iv); added ''and uses reliable administrative data to measure progress and inform continuous improvement'' to factor (v); added ''more'' to factor (x), changed ''encourages'' to ''includes'' in factors (xviii) and (xix); in factor (xxii), clarified that reviewers can assess the extent to which applicants propose a plan for capacity-building that leverages one or more of the other resources listed in that factor; and included the ''extent to which'' language in factor (xxiii).

In paragraph (c), we added ''meaningful'' to factor (ii).

In paragraph (d), we added ''responsive'' to factor (i), modified factor (ii) for clarity by substituting ''target population'' for ''entities,'' and added ''or other conceptual framework'' after ''logic model'' in factor (iv).

In paragraph (e), we added the ''extent to which'' language in factors (i) and (ii), and we revised factors (ii) and (iv) to focus on lived and relevant experiences.

In paragraph (f), we removed the first mention of ''organization'' from factor (i), revised factor (v) to clarify how the costs would ''permit other entities to replicate the project,'' and in factor (vii), we changed ''institution'' to ''applicant'' and the ''end date of Federal funding'' to ''Federal funding ends.''

In paragraph (g), we added ''meaningful'' to factor (ii).

In paragraph (h), we changed ''provided for describing'' to ''are designed to measure'' in factor (iii), added ''diagnostic'' to factor (vi), revised the second half of factor (xi) to focus on informing decisions about specific project components, added ''the extent to which'' in factor (xiv) along with ''required to conduct an evaluation of the proposed project,'' and added a new factor (xvi) on administrative data.

In paragraph (i), we revised paragraph (1) to include ''the proposed project for recipients, community members, and partners'' and then removed this language from paragraph (2); added consistent language in factors (ii) and (iii) on ''together with any project partners;'' revised factor (iii) to focus on scaling at the national level, to distinguish it from factor (ii), as was the intent; added the ''quality of the'' before ''mechanisms'' in factor (iv) for consistency, changing ''being able to expand the proposed project'' to ''expansion'' in factor (vii); added ''and are responsive to'' in factor (vii), and added a new factor (x) on data tools and techniques.

Section 75.225 What procedures does the secretary use when deciding to give special consideration to new potential grantees?

Comments: Multiple commenters supported the proposed changes to § 75.225 and the ability to prioritize new potential grantees, recognizing that the current ''novice applicant'' language limited the Department to prioritizing only applicants that have not received Federal funding in the past five years. Two commenters recommended that the Department retain current § 75.225(d), allowing for the imposition of special grant conditions for novice applicants.

In addition to prioritizing new potential grantees, multiple commenters encouraged prioritizing grantees ''with a history of success,'' citing, as an example, rural grantees that have benefited from the experience.

One commenter, while agreeing with the use of the term ''new potential grantee'' instead of ''novice applicant,'' questioned the likelihood that this modified priority would diversify the applicant and grantee pools, particularly in competitions with limited numbers of applications and competitions where there are often repeat grantees.

One commenter urged the Department not to prioritize new potential grantees in the TRIO programs, citing the program's statutory requirement to consider prior experience.

Discussion: We appreciate the support for the proposed changes to § 75.225 and agree that the proposed revisions will allow use of this priority in more discretionary grant programs and that it will more effectively promote the Department's interest in awarding grants to a diverse and inclusive group of applicants, including those who have served students with positive results but may have less experience with Federal grants. The Department declines the commenter's suggestion to retain the language regarding special conditions for new applicants in current § 75.225(d), because the Department already is required to conduct a risk assessment of applicants prior to making an award under 2 CFR 200.206 of the Uniform Guidance, and, under 34 CFR 200.208, to impose appropriate specific conditions, and the revisions to § 75.225 eliminate this redundancy.

The Department declines to adopt a specific priority for experienced grantees, because other factors, such as the selection criteria in § 75.210, already take into account organizational and personnel experience. We are clarifying, in paragraph (a), that in instances where we prioritize new potential grantees by establishing an absolute priority for those applicants, we also have a separate absolute priority for applicants that are not new potential grantees, to align with the current practices of the Department. For example, a competition including § 75.225(b)(3)(i) as an absolute priority would include § 75.225(c)(3)(i) as a separate absolute priority. We are also clarifying how paragraph (a) works when used as a competitive preference priority.

As to the concern about whether prioritizing new potential grantees will successfully diversify the applicant and grantee pools, the Department is actively engaged in outreach efforts for each of its grant competitions, as discussed above in the response to the comment on §§ 75.100–75.102 and regards this new language as one tool in the broader strategy to reach more potential applicants for its grant programs.

Lastly, regarding the concern about prioritizing new potential grantees in the TRIO programs, the Department considers a program's statute and purpose, as well as the number and types of applicants in recent competitions, when determining whether and how to use § 75.225 for a particular grant competition.

Changes: We have revised paragraph (a) to clarify how new potential grantees are prioritized through a competitive preference priority or through an absolute priority by establishing one competition for those applicants that meet one or more of the conditions in paragraph (b) of this section and a separate competition for applicants that meet the corresponding condition(s) in paragraph (c), deleted proposed

paragraph (c), and redesignated proposed paragraph (d) as paragraph (c).

Section 75.226 What procedures does the secretary use if the secretary decides to give special consideration to applications supported by strong, moderate, or promising evidence, or an application that demonstrates a rationale?

Comments: Several commenters supported the prioritization of evidence in grant competitions, recognizing the need to prioritize rigorous evidence, including at the ''demonstrates a rationale'' level to support innovation. One commenter proposed to give the greatest consideration to strong, moderate, or promising evidence. Multiple commenters raised concerns about § 75.226 and the prioritization of evidence, asserting that the evidence level definitions are not clear and that applicants may select evidence that meets the applicable program requirement but does not align with the proposed project or with local needs. These commenters suggested that if the Department intends to replicate particular models supported by evidence, the Department should provide a list of those models. One commenter was concerned about how the Department intends to apply § 75.226 to specific Department grant programs, indicating that in some instances project staff may lack the experience and expertise to conduct research and, more generally, that a focus on research pulls resources from direct services.

Discussion: We appreciate the thoughtful comments about § 75.226. The Department has had the discretion to prioritize evidence at the promising, moderate, and strong levels since 2013, and the proposed update to § 75.226 simply aligns this provision with the current evidentiary definitions in the ESEA, including the fourth tier of evidence: ''demonstrates a rationale.'' These four tiers of evidence can be considered for use in any of the Department's programs. Applicants should assess the evidence base in relation to their particular local needs, the evidence base may include utilizing the resources provided by the What Works Clearinghouse (WWC). The Department also considers the evidence base when determining whether and how to prioritize evidence in a grant competition and determines the highest level of available evidence when making these decisions.

Regarding the priority of evidence in specific Department grant programs, along with taking into consideration the current body of evidence relating to a program, the Department also considers a program's statute and purpose. Section 75.226 does not involve research or specify a particular use of funds regarding research, or whether funds are used for research or for direct services; instead, it addresses an applicant's submission of evidence during the grant application process to support a component of the proposed project. As noted above, the Department has the discretion to choose whether and how to use § 75.226 in a particular grant competition. For these reasons, it is not necessary or appropriate to add language giving particular priority to the strong, moderate, or promising evidence levels.

Changes: None.

Section 75.227 What procedures does the secretary use if the secretary decides to give special consideration to rural applicants?

Comments: Multiple commenters supported the prioritization of rural applicants, including entities that serve rural areas, stating that § 75.227 recognizes the unique needs of rural applicants and the challenges in accessing resources for rural areas.

Two commenters expressed concerns with giving priority to an applicant based on its locale, stating that some entities located outside rural areas may have experience serving rural locations and should not be excluded if they propose to serve more than solely rural areas. They also expressed concern about prioritizing rural applicants when many services are now provided virtually.

One commenter did not feel rural applicants in the TRIO programs should receive priority because rural areas are already served by the program.

Discussion: We appreciate the comments in support of § 75.227. We clarify that § 75.227 does not require that an applicant be rural; rather, the applicant must propose to serve a rural locale. With respect to the comment regarding priority in the TRIO program, we note that we consider a program's statute and purpose, including whether the program serves rural areas, when determining whether and how to use § 75.227 for a particular grant competition. We are clarifying, in paragraph (a), that in instances where we prioritize rural applicants by establishing an absolute priority for those applicants, we also have a separate absolute priority for applicants that are not rural applicants, to align with the current practices of the Department. For example, a competition including § 75.227(b)(2)(i) as an absolute priority would include § 75.227(c)(2)(i) as a separate absolute priority.

Changes: We have revised paragraph (a) to clarify how rural applicants are prioritized through a competitive preference priority or through an absolute priority by establishing one competition for those applicants that meet one or more of the conditions in paragraph (b) of this section and a separate competition for applicants that meet the corresponding condition(s) in paragraph (c), deleted proposed paragraph (c), and redesignated proposed paragraph (d) as paragraph (c).

Section 75.253 Continuation of a Multiyear Project After The First Budget Period

Comments: We received two comments with recommended revisions to § 75.253 that focused on continuous improvement in making continuation award decision for current grantees, stating that a focus on continuous improvement and an examination of the goals and objectives of the project can improve outcomes for the grant's target population. Commenters specifically proposed a new paragraph that would allow a grantee to achieve or exceed its goals, which could result in revisions to targets.

Discussion: We appreciate the focus on continuous improvement and the opportunity for grantees to revise targets as goals are met. Grantees work with the Department on any proposed changes to the approved grant application, which may include changes to targets based on how grantees are performing relative to the goals outlined in the approved grant application. We decline to adopt the commenters' proposed revisions to proposed paragraphs (ii)(A) and (ii)(B) to address changes when goals are exceeded, because paragraph (ii) applies to a different group of grantees, specifically those who have encountered challenges meeting their goals and are seeking approval for changes to help them make substantial progress. We thus do not think the proposed revisions align with the intent of paragraphs (ii)(A) and (ii)(B).

Changes: None.

Section 75.254 Data Collection Period

Comments: We received three comments in support of the data collection period in proposed § 75.254. One commenter appreciated the ability to use Federal funds for salaries and costs associated with data collection requirements after the initial grant project period. Another commenter appreciated the ability to provide the necessary description and budget for a

data collection period in the initial grant application.

Discussion: We agree with the commenters on the value of a data collection period and agree that it could be helpful for an applicant to provide details about such a period in their initial grant application.

Changes: None.

Section 75.261 Extension of a Project Period

Comments: None.

Discussion: After undertaking our own internal review, we have revised the cross-reference in proposed § 75.261(c) to read ''(b)(4)(ii)'' to align with current Department practices. This makes clear that the waiver request in § 75.261(c) is applicable to paragraphs (b)(4)(ii)(A), (b)(4)(ii)(B), and (b)(4)(ii)(C).

Changes: We have revised the cross-reference in § 75.261(c) to read ''paragraph (b)(4)(ii).''

Section 75.590 Grantee Evaluations and Reports

Comments: We received multiple comments in support of the proposed addition of paragraph (c) in § 75.590, which allows the Secretary to require an independent evaluation and make reports and data publicly available. The commenters appreciated the effort to advance evidence by sharing data and evaluations, and one commenter especially appreciated the use of ERIC to reduce the public's burden finding published evaluation results.

One commenter, in response to proposed § 75.590(c) requested clarity on the meaning of ''independent evaluation'' and requested that the Department require rigorous evaluations proposed under paragraph (h) of § 75.210 (''quality of the project evaluation or other evidence-building'') be posted to ERIC.

Two commenters had privacy concerns about making data available to third-party researchers under proposed § 75.590(c)(3). One commenter felt LEAs might limit their participation in studies if they required sharing data about students. The second commenter felt the phrase ''consistent with applicable privacy requirements'' was not specific enough and should take into consideration other legal and privacy concerns, such as the Federal Policy for the Protection of Human Subjects and institutional review board policies, as well as terms established by the provider of the data.

Lastly, two commenters recommended that the Department set up a system, perhaps through the WWC, to manage these data sets, similar to how the IES makes data available from the National Center for Education Evaluation and Technical Assistance evaluations.

Discussion: We appreciate the support for proposed § 75.590(c) and agree that it is valuable to share project evaluations and data, including through ERIC as a central resource.

As for the meaning of ''independent evaluation'' under § 75.590(c), these final regulations add a definition in § 77.1(c). The definition allows different types of entities or units of an organization to conduct the evaluation, provided they are not directly involved with the project implementation. We appreciate the commenter's recommendation that rigorous evaluations proposed under paragraph (h) (''quality of the project evaluation and evidence-building'') in § 75.210 be posted to ERIC and will consider how to use the options available under § 75.590 when developing an NIA for a grant competition.

With respect to commenters' privacy concerns about § 75.590(c)(3), the Department's Public Access Plan takes data privacy into account. *https://ies.ed.gov/funding/pdf/EDPlanPolicyDevelopmentGuidanceforPublicAccess2024.pdf.* Specifically,

> [t]here are circumstances, such as when a State or Federal law does not allow student data to be further disclosed, where investigators will not be able to share their complete data set. However, [the Department] expects those data not restricted by law, including primary data collected by the project or extant data obtained from a private source, to be shared at the time of initial publication of the findings or within a certain time period following award close-out, whichever occurs first, in machine readable formats. As with publications, these data should be made available to the public without charge and with accompanying metadata to facilitate discoverability and re-use (Public Access Plan, section 3.0, page 6).

We agree that § 75.590(c)(3) could further specify privacy requirements and have added confidentiality language that is conceptually similar to the commenter's proposal and mirrors language in the Public Access Plan.

We decline commenters' request to establish a Department repository for data, because, as set forth in the Public Access Plan, other entities are developing plans to share data in public repositories that align with the characteristics described in the National Science and Technology Council document entitled ''Desirable Characteristics of Data Repositories for Federally Funded Research'' whenever feasible. *https://www.whitehouse.gov/wp-content/uploads/2022/05/05-2022-Desirable-Characteristics-ofData-Repositories.pdf.*

Changes: We have revised § 75.590(c)(3) to ensure that the data from the independent evaluation are made available to third-party researchers consistent with the requirements in 34 CFR part 97, Protection of Human Subjects, and other applicable laws.

Section 75.591 Federal Evaluation; Cooperation by a Grantee

Comments: Three commenters had concerns about the proposed revisions to § 75.591. One commenter recommended clarifying that the examples provided in the proposed revisions are illustrative and proposed adding language to clarify that there may be other activities a grantee would be expected to undertake as part of a Federal evaluation. Another commenter was concerned about increased burden on grantees to participate in a Federal evaluation and about the ability to recruit LEAs and other entities to participate in grants where there is such a requirement. The commenter also was concerned that ''pilot'' studies would have limited ability to meet WWC standards, and found the use of ''if required'' and ''must'' in paragraph (b) to be contradictory. The third commenter stated that the TRIO programs are expressly prohibited from recruiting ''additional students beyond those the program or project would normally serve,'' which the commenter interpreted to prohibit the random selection of a subset of subgrantees for pilot projects contemplated in paragraph (b) with respect to the TRIO programs.

Discussion: We appreciate the concerns raised about the revisions to proposed § 75.591.

We agree with the commenter's suggestion that paragraphs (a) and (b) should be presented as a non-exhaustive list of required evaluation activities and accept the commenter's proposed revision.

Not all programs or grantees will involve a Federal evaluation. We consider program statutes and purposes, including statutory requirements to conduct a program-level evaluation, when determining which programs and grantees should participate in a Federal evaluation. We also consider the Department's Learning Agenda, which sets forth six focus areas for evidence building over four years to strengthen the Nation's education system. *https://ies.ed.gov/ncee/pdf/ED_FY22-26_Learning_Agenda_v2.pdf.* Because not all programs and grantees will participate in a Federal evaluation,

proposed § 75.591(b) included both ''if required'' and ''must.'' However, for streamlining with the introductory paragraph, which already includes the phrase ''if requested by the Secretary,'' we are removing the phrase ''if required by the Secretary'' at the beginning of paragraph (b).

We also recognize that there are many types of evaluations and that the randomized controlled trial referenced in paragraph (b) may not be the appropriate type of evaluation for all programs. We take this point into consideration, among other factors, when determining when and how to evaluate a Federal program. Where a randomized controlled trial might be appropriate, however, it is important that an applicant be aware in advance and can recruit enough sites to allow the Department to randomly select a subset for the purposes specified in paragraph (b).

Additionally, we recognize that not all programs that will participate in a Federal evaluation will have a program statute that requires such participation, and we are removing this language to align with current Department practices.

Changes: We added ''among other types of activities'' to the introductory language of § 75.591 and removed the ''in accordance with program statute'' language. We also removed the phrase ''if requested by the Secretary'' from the beginning of proposed § 75.591(b).

Section 75.600–75.618 Construction

Comments: We received multiple comments related to the proposed revisions to the construction regulations in §§ 75.600–75.618. One commenter urged the Department to consult with State educational agencies (SEAs) and LEAs before finalizing these sections of EDGAR, asserting that proposed §§ 75.611 and 76.600 do not recognize the distinction between direct grant programs and state-administered programs. Regarding the application of §§ 75.600–75.618, the commenter requested that the Department consider existing paperwork related to construction before requiring any new reporting, citing 2 CFR 200.329(d) of the Uniform Guidance.

One commenter had concerns that proposed § 75.602(a)(1) could inhibit innovative building practices by just focusing on meeting building codes and not considering other concepts such as net zero energy buildings. The commenter proposed revisions to focus on green building practices.

Two commenters expressed concerns about the proposed changes to § 75.606(b)(3) and (b)(5) regarding the recording of a Federal interest on real property and annual reporting on the status of real property. The commenters raised concern about the administrative burden of this recording and reporting when there are improvement and minor updates to real property. One commenter cited a lack of consistency in how ''real property acquisition'' is defined, including between the Department and OMB (as shown on OMB Standard Form 424D, for example). The commenter noted that the recording requirements of other agencies are not as extensive as the Department's and they allow recording to be forgone on a case-by-case basis where the Federal investment is minor. The commenter also requested less frequent reporting in § 75.606(b)(5), which the commenter asserted would be more consistent with OMB and other agencies. The commenter proposed these revisions to support a focus on green building efforts, encouraging the modernization of school buildings, and consideration of life-cycle costs in addition to upfront costs.

One commenter proposed specific edits to § 75.612 regarding mitigating flood hazards and flooding risks, noting that schools often serve as community shelters during severe weather.

One commenter recommended that § 75.616 include additional language to cover subsequent updates to the ASHRAE standards; the commenter also proposed language in paragraph (a) on life-cycle costs that take into consideration costs associated with building beyond initial construction and the costs associated with educating the community about the building efforts, which the commenter suggested be capped at 0.5%.

One commenter recommended revisions to § 75.618 to allow a grantee to ''use additional standards and best practices to support health and wellbeing of students and staff.'' The commenter indicated that, because standards are often updated more frequently than regulations, it would be beneficial to allow grantees, and LEAs in particular, to utilize standards when making health and safety determinations for their population.

Discussion: We recognize the importance of working with entities impacted by these regulations, including States and LEAs, and the public comment period provided a valuable opportunity for these entities to provide their perspectives. We also appreciate the concerns about the potential burden of any additional reporting for grantees. With respect to commenters' concerns about the scope of proposed § 75.606(b), we note that § 75.606(b) is specifically about the acquisition of real property and construction, and we included a definition for ''construction'' in § 77.1(c). With respect to potential administrative burden, we note that the Federal interest recording and real property reporting requirements are not new, and they are driven by the Uniform Guidance. When funds are used for construction, many different existing requirements are triggered, including the recording and reporting on real property improvements or acquisition.

The definition of ''Federal interest'' and the annual reporting requirement that is currently in 2 CFR 200.330 was originally in 2 CFR 200.329 when the Uniform Guidance was first adopted by many agencies, including the Department. The Uniform Guidance provisions apply to all new Department grant awards and non-competing continuations made on or after December 26, 2014, and include requirements around reporting on real property.

The Department's requirements are consistent with the Uniform Guidance, and the Department cannot speak to the practices of other agencies. We are adding introductory language to § 75.606(b)(3) to make clear that any recording of Federal interest must be in accordance with agency directives, to account for any program-specific directives that may impact the recording of Federal interest.

Regarding the comments and proposed edits to §§ 75.602, 75.612, 75.616, and 75.618 related to green building practices and flood hazards, and energy conservation, we recognize the importance of considering flood hazards, green building practices, life-cycle costs in building, and educating the community around construction efforts. We include the proposed changes to § 75.612 regarding flood hazards and are including additional, relevant Executive orders. Additionally, related to flood hazards, the Federal Emergency Management Agency's ''Guidelines for Implementing Executive Order 11988, Floodplain Management, and Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input'' includes information related to flood risk guidance that we note here for consideration. While we decline to require such measures due to potential costs to grantees, we agree that many of the commenters' suggestions would add value in the construction process and have added many of them as options in the provisions to which they apply, as set forth in the ''Changes'' section

below. Given that community education is optional, it is not necessary to include the commenter's suggested percentage limit on such costs.

We appreciate the interest in avoiding the need to update EDGAR when the ASHRAE standards are updated, but because ASHRAE is incorporated by reference in EDGAR, the specific version must be cited, which the Department will update if the ASHRAE standards are revised.

Lastly, we reviewed the construction sections for clarity and are making revisions to streamline the language, such as changing ''made a determination on the specifications'' to ''approved''.

Changes: We are changing ''made a determination on the specifications'' in § 75.601(b) to ''approved'' and ''providing approval of the final working specifications of'' in § 75.602(c) to ''approving''. We are adding three new paragraphs to § 75.602(b) that allow grantees developing a construction budget to include funds for energy, HVAC, and water systems and training on their use; life-cycle cost analysis; and school and community education about the project. We are revising § 75.606(b)(3) to make clear that the real property recording requirement accounts for this agency's directives. We are revising § 75.612 to include new paragraphs that require grantees to consider flood hazards and risks in planning a construction or real property project and reference two additional Executive orders. We are changing ''applicant'' in § 75.614(b)(1) to ''grantee.'' We are adding a new sentence to § 75.616(a) that allows grantees to consider life-cycle costs and benefits of certain energy projects. We are adding a new § 75.618(b) that allows a grantee to consider additional standards to support health and wellbeing.

Section 75.623 Public Availability of Grant-Supported Research Articles

Comments: Three commenters expressed support for the proposed addition of § 75.623, with one commenter appreciating the easier access to federally funded research and another commenter highlighting paragraphs (a) and (c) and supporting alignment with IES practices and making grant-supported research publications accessible. One commenter recommended aligning the timeline in § 75.623(c) with the Public Access Plan with respect to when IES will make peer-reviewed scholarly articles available in ERIC. The commenter also recommended a new paragraph (e) requiring grantees to make ''scientific data'' available.

Discussion: We appreciate the support for proposed § 75.623 and agree that it is valuable to make grant-supported research publications accessible. We also agree that the timing in § 75.623 should align with the Public Access Plan and have revised § 75.623(c) accordingly. Likewise, we agree with the commenter's suggestion to make ''scientific data'' from Department grants publicly available, and added a new paragraph (e) to this effect as well as a definition of ''scientific data'' in § 77.1(c) that aligns with language in the Public Access Plan.

Changes: We aligned the timing in § 75.623(c) to the language in the Public Access Plan, added a paragraph (e) that requires scientific data to be made available ''consistent with the requirements in 34 CFR part 97, Protection of Human Subjects, and other applicable laws,'' and added a definition of scientific data to § 77.1(c).

Section 75.708 Subgrants

Comments: We received one comment on § 75.708, seeking confirmation that a contract entered into by a grantee is different than a subgrant awarded by the grantee and seeking clarification about the contract competition process.

Discussion: Final § 75.708 clarifies how the Secretary authorizes subgrants and that contracts are an option when subgranting is not allowed. We confirm that a contract and a subgrant (subaward) are distinct, and the differences between the terms are reflected in their respective definitions in § 77.1(b). A contract is ''a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out the project or program under a Federal award.'' 34 CFR 77.1(b) and 2 CFR 200.1. A subgrant is an award by a grantee to a subgrantee to ''to carry out part of a Federal award received by the [grantee].'' 34 CFR 77.1(b) and 2 CFR 200.1. The procurement requirements a grantee must follow to enter into a contract are set out in 2 CFR 200.317 through 200.327.

Changes: None.

Section 75.720 Financial and Performance Reports

Comments: Multiple commenters opposed the proposed revisions to § 75.720. The commenters also shared the concern that reports, especially financial reports, contain proprietary information. One commenter expressed concern about the administrative costs of preparing reports for public posting and the potential insufficiency of funds to cover such costs. Another commenter was concerned that making the reports publicly available could negatively influence peer reviewers who could access the reports when reviewing applications for a new award.

One commenter proposed revising paragraph (a) to incorporate the theme of continuous improvement.

Discussion: We appreciate the concerns raised by the commenters about proprietary information in financial and performance reports and have included language to address these concerns that mirror language included in NIAs regarding proprietary ''business information.'' We note that the Department will decide which programs are subject to this additional posting requirement in paragraph (d), taking into account the costs and benefits of posting within a particular program and will clarify the allowability of funds to pay for any additional posting.

With respect to the concern that peer reviewers might be influenced by publicly available performance reports, peer reviewers receive training to only review materials in the submitted grant application, and we will continue to emphasize this point. We thus decline to explicitly address this concern in § 75.720.

Given that § 75.720 cross-references defined types of reports in the Uniform Guidance, we do not think it is necessary to include suggested edits related to continuous improvement beyond the approved types of reporting from the Uniform Guidance.

Changes: We have added language to § 75.720(d) about requesting confidentiality of ''business information'' to allow for its protection.

Section 75.732 Records Related to Performance

Comments: We received two comments regarding § 75.732 with proposed revisions to this section as well as a recommendation to create a new parallel § 76.732 in part 76 so that this provision also applies to State-administered grant programs. The commenters requested that we amend § 75.732(b) to use performance records to inform continuous improvement.

Discussion: We appreciate and agree with the focus on continuous improvement, as informed by performance records, and agree that it is appropriate to adopt a similar provision for State-administered grant programs in part 76.

Changes: We have added a new paragraph (b)(2) to § 75.732 that requires grantees to use performance reports to inform continuous improvement, and

added a new § 76.732 that mirrors § 75.732.

Part 76—State-Administered Formula Grant Programs

Section 76.50 Basic Requirements for Subgrants

Comments: One commenter was generally supportive of the proposed changes to § 76.50 but requested additional clarification on: (1) whether States may determine which entities are eligible for subgrants when the program statute is silent; (2) how, if at all, subgrants the State chooses to make interact with grant formulas that determine the amount of Federal funds that the State must subgrant; and (3) whether the proposed regulations allow subgrantees to make their own subgrants. Another commenter strongly opposed the proposed changes to § 76.50 that would clarify States' ability to make subgrants, and allow States to authorize a subgrantee to make subgrants, using funds from State-administered formula grant programs, unless prohibited by their authorizing statutes, implementing regulations, or the terms and conditions of their awards. The commenter asserted that this proposed revision would create additional complications for States, requiring them to train and oversee subgrantees on how to make and monitor subgrants.

Discussion: We appreciate the commenter's suggestions and agree that additional clarity would be useful. We clarify that a State may, but is not required to, determine eligible subgrantees if the applicable statutes and regulations do not specify them, so long as the applicable statute, regulations, or terms and conditions of the grant award do not prohibit subgranting. We also clarify that no subgrant a State chooses to make may change the amount of Federal funds for which an entity is eligible through a formula in the applicable statute or regulation. That is, any subgrant a State chooses to make would be in addition to the funds a subgrantee already receives by formula. Finally, we note in response to the commenter's question, that under § 76.50(b)(3), a State may authorize a subgrantee to make subgrants, unless prohibited by their authorizing statutes, implementing regulations, or the terms and conditions of their awards.

We appreciate the concerns raised about how the potential for additional subgrants could require additional State oversight and training. This provision provides States with appropriate flexibility to implement grants in a manner most suitable to their circumstances, by permitting, but not requiring, the State to make subgrants. Accordingly, a State could avoid any additional training and oversight if the State agency elects not to award subgrants, except in those programs where subgranting is required by statute or regulations. However, when a State elects to engage in subgranting, or is required to do so, it is the State's responsibility as a Federal grantee pursuant to 2 CFR 200.332 to conduct oversight of the subgrantee to ensure Federal requirements are satisfied. Section 76.50(c) simply reminds grantees of those Federal requirements at 2 CFR 200.332 and does not impose additional oversight requirements on the State. These changes will ensure common standards across programs when applicable statutes, regulations, or the terms and conditions of a grant award are silent regarding subgrants. Even if the statute or regulations are silent, the Department may prohibit subgranting through the terms and conditions of a grant award, as appropriate given the nature of the program and its requirements. These provisions give both the Department and the State sufficient authority to ensure subgranting occurs only when appropriate.

Changes: We have amended § 76.50(b)(2) to specify that applicable statutes or regulations determine eligible subgrantees and that States make such determination if not addressed in applicable statutes or regulations. In addition, we made a technical edit to § 76.50(d) to add the words ''terms and'' to make clear that the Department may prohibit subgranting through the terms and conditions of a grant award. This phrase is consistent as that used in § 76.50(b) and is needed to ensure clarity and consistency. Last, we have added a new paragraph § 76.50(e) to clarify that receipt of a subgrant a State chooses to make does not change the amount of Federal funds for which an entity is eligible through a formula in applicable statute or regulation.

Section 76.101 State Plans in General

Comments: Two commenters recommended adding an additional paragraph to § 76.101 to require LEA subgrant applicants to focus on the use of research, data, information learned from engagement, and continuous improvement efforts to inform program implementation. The comments aligned with the commenters' broader focus on continuous improvement throughout EDGAR.

Discussion: We appreciate the effort to infuse continuous improvement throughout EDGAR. We are adding language to § 76.101 to note ways States may consider continuous improvement in their plans. The Department can work with States to understand this new language; however, we are not adding language to § 76.301 regarding LEA subgrant applications since those plans go directly to States, rather than the Department, though nothing in our regulations limits a State's ability to work with subgrantees on continuous improvement.

Changes: We are adding language to 76.101(a) to acknowledge that continuous improvement may help States use their State plans to meet program objectives.

Section 76.140 Amendments to a State Plan

Comments: One commenter raised the concern that while the proposed revisions to § 76.140 address how the Secretary can streamline the process for amendments to State plans, it does not discuss any streamlining of the approval process. Specifically, the commenter proposed revisions to paragraph (c) to incorporate the submitting and approving of amendments, and the addition of a new paragraph (d) around exceptions to the approval process, including expedited approval.

Discussion: The Department appreciates the commenter's recognition for why amendments to State plans might follow different procedures from the original State application. As such, we accept the proposed edits to paragraph (c) around the submission of amendments and the requirements associated with a State-administered formula program. States, when submitting an amendment, may request expedited approval; however, when and how the Department is able to expedite approval is case-specific and, as such, we do not think it necessary to expand beyond what the normal procedural rules would be and decline to add a new paragraph (d).

Changes: We have revised paragraph (c) in § 76.140 to clarify that the Secretary may prescribe different procedures for submitting amendments and to refer to the requirements as well as the characteristics of a particular State-administered formula program.

Section 76.301 Local Educational Agency Application in General

Comments: Two commenters recommended adding an additional paragraph to § 76.301 to focus on the use of research, data, information learned from engagement, and continuous improvement efforts to inform program implementation. The comments aligned with the commenters' broader focus on continuous improvement throughout EDGAR.

Discussion: We appreciate the effort to infuse continuous improvement throughout EDGAR but decline to adopt the commenter's recommendation because Section 76.301 is about the application of GEPA section 442 to LEAs; it is not about the contents of a subgrant application submitted by an LEA, which is driven by the applicable program statute. However, there is nothing that prohibits a State from requesting that an LEA seeking a subgrant provide information about the research, data, information learned from engagement, and continuous improvement efforts to inform program implementation.

Changes: None.

Section 76.500 Constitutional Rights, Freedom of Inquiry, and Federal Statutes and Regulations on Nondiscrimination

Comments: None.

Discussion: Based upon our own internal review, we have revised § 76.500 to correct the section heading, which was inadvertently changed in the NPRM. The section heading should read the same as the current language in EDGAR: ''Constitutional rights, freedom of inquiry, and Federal statutes and regulations on nondiscrimination.'' The section heading was inadvertently modified in the NPRM, when the Department's only proposed changes to § 76.500 should have been to paragraph (a).

Changes: We have corrected the heading to section 76.500 in the final regulations.

Section 76.560 Approval of Indirect Cost Rates

Comments: One commenter appreciated the Department's efforts to align the indirect cost sections in EDGAR with the Uniform Guidance. One commenter requested that the Department clarify the role SEAs play in facilitating indirect cost rate determinations for non-LEA subgrantees that do not have established rates. The commenter expressed particular interest in the relationship between proposed § 76.561(a), which clarifies that the Department negotiates indirect cost rates for non-LEA subgrantees when the Department is the cognizant agency, and 2 CFR 200.332(a)(4)(i), which describes the role of passthrough entities in identifying rates for subrecipients without one.

Discussion: OMB has designated the Department as the cognizant agency for indirect costs for SEAs and LEAs (see 2 CFR Appendix-V-to-Part-200 F.1. ''Department of Education''). Under § 76.561(b), the Department has delegated to SEAs the responsibility for approving the indirect cost rates for LEAs on the basis of a plan approved by the Department. For non-LEA subgrantees that do not have direct Federal awards, the indirect cost review process is addressed in the Uniform Guidance. Specifically, the Uniform Guidance provides the three-step process for pass-through entities and subrecipients to identify and review indirect cost rates. Under 2 CFR 200.332(a)(4)(i), if the subrecipient has an approved allowable indirect cost rate for the award, then the subrecipient may use the indirect cost rate. Under 2 CFR 200.332(a)(4)(i)(A), if no indirect cost rate is available, the pass-through entity is to collaboratively negotiate an indirect cost rate using the Federal regulations. Finally, under 2 CFR 200.332(a)(4)(i)(B), the entity may elect the *de minimis* indirect cost rate if the program does not require special indirect cost rates such as restricted indirect cost rates (§ 75.563 and § 76.563) or training indirect cost rates (§ 75.562). Consistent with 2 CFR Appendix-IV-to-Part-200 2.a, if the subrecipient does not receive any funding from any Federal agency, the pass-through entity is responsible for the negotiation of the indirect cost rates in accordance with 2 CFR 200.332(a)(4).

The Department's Indirect Cost Division is available to provide technical assistance and guidance on issues relating to cognizance of direct recipients and pass-through entity responsibilities. Additional information is available at: *https://www2.ed.gov/about/offices/list/ofo/indirect-cost/responsibility.html.*

Changes: None.

Section 76.650–76.677 Participation of Students Enrolled in Private Schools, Equitable Services Under the Cares Act, and Procedures for a Bypass

Comments: A couple of commenters opposed removing §§ 76.650–76.662 and instead proposed that the Department update these sections to be consistent with current laws. They stated that it is appropriate to have consistent default standards for providing services and assistance to students and educators in private schools if Congress authorizes new grant programs outside of programs such as those under the Individuals with Disabilities Education Act or ESEA, for which program-specific regulations exist.

A few other commenters expressed concern that the existing requirements in § 76.650 are not consistently implemented or monitored. These commenters urged emphasis on grantee and subgrantee consultation with representatives of students enrolled in private schools by having § 76.650 reference proposed § 299.7(a)(1)(i).

Discussion: We agree with the commenters that retaining equitable services requirements in part 76 is useful for potential future programs. Accordingly, we will not remove §§ 76.650–76.662. As a result, we will also not change the cross-references in § 75.119, which will continue to refer to § 76.656, and § 75.650, which will continue to refer to §§ 76.650–76.662. Similarly, we will not delete paragraph (c) of § 299.6, which cross-references §§ 75.650 and 76.650–76.662.

At the same time, we also agree with commenters about the value of additional clarity regarding the consultation requirements outlined in § 299.7. Accordingly, we are including a cross-reference to final § 299.7 in § 76.652.

Changes: We are retaining §§ 76.650–76.651 and 76.653–76.662 as they exist in current regulations, with minor updates for clarity and accuracy, rather than making the changes proposed in the NPRM. Since we are not changing § 76.656, we will also not change the cross-reference in § 75.119, which will continue to refer to § 76.656. We are revising § 76.652 to refer to the consultation requirements in final § 299.7.

Section 76.707 When Obligations Are Made

Comments: A few commenters proposed that the Department consider changes to § 76.707 to align fund obligation standards for personal services provided by an employee of the State or a subgrantee with those applicable to contractors. Two commenters noted that it is important for State and subgrantee personnel to be allowed to provide oversight beyond the period during which the funds are available for obligation. They also noted that recently proposed updates to the Uniform Guidance (since finalized) would allow payment of closeout costs using the applicable Federal financial assistance, which would apply to employees, contractors of grantees, and subgrantees.

Discussion: We understand the complexities of the issues and appreciate the views expressed by the commenters. However, the changes to the Uniform Guidance do not alter the time period in which obligations are allowable under each appropriation in concert with section 421 of the General Education Provisions Act and as reflected in § 76.709. Because we did not propose substantive changes in §§ 76.707 or 76.709 in the NPRM, we decline to make them at this time. The Department will collaborate with grantees in implementing the Uniform Guidance.

Changes: None.

Section 76.720 State Reporting Requirements

Comments: One commenter proposed including ''continuous improvement'' as part of State reporting requirements, consistent with the commenter's interested in embedding continuous improvement efforts throughout EDGAR.

Discussion: We recognize the importance of continuous improvement and agree with the connection of continuous improvement in the context of State reporting requirements. Specifically, it is helpful to clarify that State reporting requirements in § 76.720 are inclusive of reporting on monitoring and continuous improvement.

Changes: We have added ''continuous improvement'' to the State reporting requirements.

Section 76.722 Subgrantee Reporting Requirements

Comments: One commenter proposed requiring subgrantees to submit reports to assist the State and the subgrantee in engaging in ''periodic review and continuous improvement'' of their respective plans, in keeping with the commenter's focus on continuous improvement efforts.

Discussion: Similar to the discussion above of comments for § 76.720, we recognize the value of continuous improvement efforts for both the State and the subgrantee and have modified § 76.722 accordingly.

Changes: We are revising § 76.722 to require subgrantees to submit reports to assist the State and the subgrantee in engaging in ''periodic review and continuous improvement'' of their respective plans.

Part 77—Definitions That Apply to Department Regulations

Section 77.1 Definitions That Apply to All Department Programs

Comments: Two commenters expressed general support for the proposed evidence definitions in § 77.1, with one commenter specifically supporting the proposed definitions for the tiers of evidence. The commenter stressed that the Department should require grantees to use the most rigorous evidence available and suggested that evaluations be designed to meet the ''moderate evidence'' or ''strong evidence'' standards, while recognizing the importance of ''promising evidence'' to help build an evidence base.

One commenter recommended the Department consider using the definitions for ''evidence-based program'' and ''evidence-building program'' that the nonprofit group Results for America has developed in consultation with its stakeholders, which the commenter asserted would improve upon the ESEA definitions. The same commenter recommended deleting the option under ''moderate evidence'' to use a study that includes ''20 or more students or other individuals,'' concerned that a study of this size is unlikely to meet a rigorous evidence standard.

One commenter recommended that the definition of ''demonstrates a rationale'' require that relevant outcomes relate to policy or practice, to narrow the focus to outcomes of most interest to policymakers. Another commenter recommended expanding the definition of ''demonstrates a rationale'' to include the second part of the ESEA section 8101 definition of the term, focused on learning from approaches implemented under the project.

One commenter appreciated that the proposed definition of ''peer-reviewed scholarly publication'' aligns with the Department's Public Access Plan, and that proposed § 75.623 requires peer-reviewed scholarly publications to be made available in ERIC.

Lastly, one commenter proposed a definition of ''continuous improvement,'' given its frequent use throughout EDGAR.

Discussion: We appreciate the support for the evidence definitions and recognize their importance for articulating evidentiary expectations for both applications and evaluations designed to build evidence, including more rigorous evaluations designed to meet the standard of ''moderate evidence'' or ''strong evidence.'' The Department considers the evidence base as well as the purpose of the grant program when determining how to include evidence-building and evaluation in a grant competition, which includes an assessment of the appropriate level of rigor for project evaluations.

We appreciate the commenter's interest in including the definitions of ''evidence-based program'' and ''evidence-building program'' and appreciate the efforts of the stakeholders involved in the development of those definitions. While those definitions are in some ways aligned with the Department's approach to evidence-based policymaking, they differ enough from the tiered evidence framework in the ESEA and EDGAR that include four tiers of evidence, that we decline to revisit our approach in this rulemaking.

We decline the commenter's request to strike certain language in paragraph (ii) of the definition of ''moderate evidence'' related to a sample size of 20 students or individuals, because it is important that EDGAR's evidence definitions align with WWC Standards. The low sample size aspect of the definition ensures that the WWC Standards are appropriately inclusive for studies related to students with disabilities, by allowing for studies involving low-incidence populations in the context of a systematic review of an intervention report.

We decline to adopt the recommended additions to the definition of ''demonstrates a rationale,'' because the proposed revisions are intended to align EDGAR's definition with the ESEA definition to the extent practicable, and the section 8101 definition does not incorporate a focus on ''policy or practice.'' We also decline the suggestion to add the second part of the ESEA definition, which requires a showing of ''ongoing efforts to examine the effects of [an] activity, strategy, or intervention,'' because applicants that are required to demonstrate a rationale in their applications have not yet implemented their projects. We also decline to adopt the second half of the ESEA definition of ''demonstrates a rationale'' for consistency with the other tiers of evidence, none of which requires ongoing evaluation efforts. We note that other parts of EDGAR, such as the selection criteria in § 75.210, incorporate ongoing efforts to evaluate impact. See, *e.g.,* § 75.210(h)(2)(ix) (the extent to which the evaluation is designed to meet WWC standards with or without reservations); and § 75.210(h)(2)(x) (the extent to which the methods of evaluation include an experimental study, a quasi-experimental design study, or a correlational study with statistical controls for selection bias).

We appreciate the support for the proposed definition of ''peer-reviewed scholarly publication'' and agree that it's important for EDGAR, and this definition, to align with the

Department's Public Access Plan, cited earlier.

We agree that, given the frequency of its use throughout EDGAR, it is appropriate to define ''continuous improvement.'' We are adding a definition of ''continuous improvement'' that aligns with the Department's evidence framework in EDGAR and that is consistent with the Department's discussion of continuous improvement in other resources, including the Department's Non-Regulatory Guidance: Using Evidence to Strengthen Education Investments (September 28, 2023). *https://www2.ed.gov/fund/grant/about/discretionary/2023-non-regulatory-guidance-evidence.pdf.*

Changes: We are adding a definition of ''continuous improvement'' to § 77.1.

Part 299—General Provisions

General Comments

Comments: Several commenters recommended that the regulations emphasize the goal of reaching agreement through consultation regarding equitable services. Commenters emphasized the importance of this being the goal for both (1) an agency, consortium, or entity receiving funds under an applicable program and (2) representatives of private schools. Commenters expressed concern that the consultation requirements may not be fully implemented in some cases or may be misunderstood to require only a single conversation that may not amount to meaningful consultation. Commenters also requested confirmation that failure of both parties to have the goal of reaching agreement could be a basis for a private school official to submit a complaint. One commenter recommended highlighting the goal of reaching agreement in proposed § 299.12 regarding the role of the ombudsman.

Discussion: We appreciate the commenters' concerns and the opportunity to confirm that final § 299.7(b) already requires that both parties have the goal of reaching agreement, and final § 299.7(e) addresses the right of a private school official to file a complaint. See 20 U.S.C. 7881(c)(1) and (6) (requiring timely and meaningful consultation and the goal of reaching agreement and providing the right to file a complaint). The final regulations also already emphasize the ongoing nature of consultation. For example, § 299.7 describes specific points when consultation is required and states that ''such consultation must continue throughout the implementation and assessment of equitable services.'' § 299.7(a)(2). We also note that the final regulations at § 299.12 require the ombudsman to monitor and enforce all equitable services requirements in final §§ 299.6–299.11, which includes § 299.7(b). We note, however, that while there is an existing requirement that there be a goal of reaching agreement, there is no requirement that agreement is ultimately reached. Accordingly, mere disagreement is not, on its own, the basis of a complaint.

Changes: None.

Comments: Several commenters sought clarity regarding the role of the ombudsman, specifically asking for additional detail about the responsibilities of the ombudsman and any oversight of the person serving in that role, but also acknowledged that such clarity likely requires legislative, rather than regulatory, changes.

Discussion: Since the ombudsman is, by statute, an employee of the SEA, we do not include additional specificity in this regulation.

Changes: None.

Comments: Several commenters underscored the importance of current § 299.7, which would become redesignated § 299.9, and requested additional information about how and when notice would be provided to appropriate private school officials of the amount of funds for educational services and other benefits that are available for eligible private school children and their teachers and other educational services personnel.

Discussion: The Department did not propose any changes to current § 299.7, which has been redesignated as § 299.9 in these final regulations, and it will continue in effect as written. The existing regulations continue to require timely notice.

Changes: None.

Comments: Two commenters expressed general support for § 299.16, stating it would provide clarity regarding the contents of an SEA's written resolution of an equitable services complaint. These two commenters offered three suggestions: (1) they pointed out that proposed § 299.16(c) should reference paragraph (h), rather than paragraph (g) of § 299.16; (2) they requested rephrasing proposed § 299.16(d) to avoid implying that the complaint resolution could only be done by an attorney; and (3) they requested clarification in § 299.16(h) that the documents that must be paginated are only those the SEA deemed relevant to its decision.

Discussion: We appreciate commenters' support for proposed § 299.16 and agree that it will bring clarity with regard to the contents of an SEA's written resolution of an equitable services complaint. We further agree with commenters that § 299.16(c) should reference paragraph (h) of this section. We also agree with commenters that we can rephrase § 299.16(d) to refer to the analysis and conclusion reached regarding requirements. Finally, we agree with commenters that the documents requiring pagination need only be those on which the SEA relied in making its decision, rather than every document received by or reviewed by the SEA.

Changes: We are revising § 299.16(c) to refer to ''supporting documents under paragraph (h) of this section.'' In addition, we are revising § 299.16(d) to refer to ''analysis and conclusions regarding the requirements'' instead of ''legal analysis and conclusions.'' We are revising § 299.16(h) to require the inclusion of ''all documents the SEA relied on in reaching its decision, paginated consecutively.''

Comments: Several commenters expressed concern that § 299.27 related to judicial review of a bypass hearing decision does not include a specific timeline for resolution.

Discussion: While we appreciate commenters' concerns about the importance of timely decisions, we do not have the authority to set timeframes for judicial processes.

Changes: None.

Other Comments

Comments: We received multiple comments with recommendations to add new sections in part 75 and 76 that would allow for the use of grant funds for costs associated with data and evaluation. Specifically, two commenters recommended the creation of new § 75.535 and a new § 76.535 to support costs related to data and evaluation. The comments cite OMB's proposed updates to the Uniform Guidance (since finalized), and specifically alignment with the proposed updates to Cost Principles in 2 CFR 200.455(c), that would allow for costs associated with data and evaluation. Another commenter proposed a new § 76.762 to allow States or subgrantees to use funds for an evaluation, with exceptions.

Discussion: We appreciate these comments, which recognize the importance of data and evaluation. The Department adopts the Uniform Guidance and uses the Cost Principles in the administration of its programs. As such, it is not necessary to include approval for use of funds for particular activities that already are covered by the

Cost Principles in the Uniform Guidance, including the allowance of funds for related evaluation costs. We discuss the allowable costs under specific grant programs and the Cost Principles in pre-application technical assistance and in post-award conversations with grantees, including the update to OMB's Uniform Guidance and Cost Principles.

Changes: None.

Comments: Two commenters recommended the creation of new §§ 75.536 and 76.536 that would allow the use of grant funds for costs associated with community engagement, given the focus on community engagement in the proposed revisions to EDGAR, including the selection criteria in § 75.210.

Discussion: We agree that community engagement is important to the success of many of the Department's grant programs. To the extent that a program's statute and purpose already allow for funds related to community engagement, adding new language is not necessary. The Department will continue to review whether further expansion of allowable costs for community engagement would be appropriate.

Changes: None.

Comments: Three commenters requested specific information related to the Individuals with Disabilities Education Act regulations in 34 CFR part 300, specifically about State and LEA responsibilities related to private school children, including ''child find'' requirements.

Discussion: We appreciate the concerns raised by the commenters but note that 34 CFR part 300 is not part of the proposed updates included in the EDGAR NPRM.

Changes: None.

Executive Orders 12866, 13563, and 14094

Regulatory Impact Analysis

Under Executive Order 12866, OIRA must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $200 million or more (as of 2023 but adjusted every 3 years by the Administrator of the Office of Information and Regulatory Affairs (OIRA) of OMB for changes in gross domestic product), or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities, or the principles stated in the Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

This regulatory action is a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866, as amended by Executive Order 14094. We have assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action and have determined that the benefits would justify the costs.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' OIRA has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these regulations only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on an analysis of anticipated costs and benefits, we believe that these regulations are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, territorial, and Tribal governments in the exercise of their governmental functions.

Costs and Benefits

We have reviewed the changes in these final regulations in accordance with Executive Order 12866, as amended by Executive Order 14094, and do not believe that these changes would generate a considerable increase in burden. In total, we estimate that the changes in these final regulations would result in a net increase in burden of approximately $100 annually with transfers of $109.8 million per year at a 7% discount rate or $113.9 million per year at 3% discount rate. Most of the changes in these final regulations are technical in nature and are unlikely to affect the administration of programs or allocation of benefits in any substantial way. However, given the large number of edits herein, we discuss each provision, other than those for which we are updating citations or cross-references and making other technical edits, and its likely costs and benefits below.

Unless otherwise specified, the Department's model uses mean hourly wages for personnel employed in the education sector as reported by the Bureau of Labor Statistics [1] (BLS) and a loading factor of 2.0 to account for the employer cost of employee compensation and indirect costs (*e.g.,* physical space, equipment, technology costs). When appropriate, the Department identifies the specific occupation used by the BLS in its tables to support the reader's analysis. The Department assumes that wage rates

[1] U.S. Bureau of Labor Statistics, *May 2023 National Industry-Specific Occupational Employment and Wage Estimates, Sector 61—Educational Services, https://www.bls.gov/oes/current/oes_nat.htm* (last modified Apr. 3, 2024).

remain consistent for the duration of the time horizon.

Changes to §§ 75.1 and 75.200 simply combine currently existing text into a single section and clarify terms used. We do not expect that these changes will have any quantifiable cost, and the changes may benefit the Department and general public by improving the clarity of the regulations.

The deletion of § 75.4 as unnecessary and redundant is unlikely to generate any quantifiable cost and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.60, which delete an outdated table and clarify a definition, are unlikely to generate any quantifiable cost and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.101, which clarify what is in a notice and an application package, are unlikely to generate any meaningful cost and may benefit the Department and general public by improving the clarity of the regulations.

Changes to §§ 75.102 and 75.104, which move paragraph (b) of § 75.102 to § 75.104, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.105, which add reference to an already existing exemption to the public comment period to the regulations, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.109, which eliminate the requirement that an applicant submit two copies of any paper applications in addition to the original, may reduce costs for applicants that submit paper applications. However, those savings are likely to be minimal, given the small incremental cost of photocopies and the low number of paper applications the Department receives in any year. At most, we estimate that it would save applicants $7.50 per application, assuming a 75-page application photocopied at a rate of $0.05 per page. Assuming an average of 50 paper applications submitted per year, this change would result in an annual savings of approximately $375.

Changes to § 75.110, which more clearly specify how applicants must report against program measures and project-specific performance measures, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.112, which allow the Secretary to require applicants to submit a logic model or other conceptual framework, are unlikely to generate any quantifiable costs or benefits. Many grant competitions already include this requirement and, to the extent that it is included in additional competitions in the future, we do not believe that it would create a substantial burden for applicants, because we assume that applicants in those programs would likely already have conceptualized an implicit logic model or conceptual framework for their applications and, therefore, would experience only minimal paperwork burden associated with memorializing it in their applications.

Changes to § 75.127, which add the term ''partnership'' and clarify that all members of a group application must be eligible entities, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

The deletion of §§ 75.190–75.192 as duplicative is unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.201, which refer to selection ''factors'' as well as ''criteria'' are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.210, which would clarify word choice, update language based on past experience in using the current selection criteria and factors, and add additional factors such as those that include a focus on the use of data, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.216, which remove paragraphs (a) and (d) and revise the section heading, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations and providing the Department additional flexibility in considering applications.

Changes to § 75.217, which remove the word ''solely'' and add ''and any competitive preference points,'' are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.219, which reorganize the section to improve clarity, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.221, which revise the section to improve clarity and remove unnecessary language, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.222, which update the mailing address for unsolicited applications, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

The changes to § 75.225 change the current term ''novice applicant'' to ''new potential grantee'' and revise the definition to provide greater flexibility to the Department in classifying applicants as ''new potential grantees.'' We believe that this change may result in a number of changes in the behavior of both Department staff and applicants. First, we believe that the additional flexibility in the revised section will increase the number of competitions in which § 75.225 is used. Second, we believe that it may result in additional applicants submitting applications for competitions in which § 75.225 is used, increasing access to Federal resources and which may serve to strengthen the quality of the applicant pool. Finally, we believe that the additional applicants, in conjunction with any absolute or competitive preference associated with the revised section, may shift at least some of the Department's grants among eligible entities. However, because this revised standard will neither expand nor restrict the universe of eligible entities for any Department grant program, and since application submission and participation in our discretionary grant programs is completely voluntary, we do not think that it would be appropriate to characterize any increased participation in our grant competitions as costs associated with this regulation.

Changes to § 75.226, which provide the Secretary with the authority to give special consideration to an application that demonstrates a rationale, are unlikely to generate any quantifiable costs or benefits. Many grant competitions already ask applicants to discuss the extent to which they can demonstrate a rationale for their proposed projects through a selection factor and, to the extent that it is included in additional competitions in the future, we do not believe that it would create a substantial burden for applicants because we assume that applicants in those programs would likely already have conceived an implicit logic model or other conceptual framework for their applications and would, therefore, experience only minimal paperwork burden associated with memorializing it in their

applications to address the requirements of the demonstrates a rationale level of evidence.

Changes to § 75.227 provide the Secretary with the authority to give special consideration to rural applicants. The language in this section mirrors language adopted by the Department in the Administrative Priorities for Discretionary Grants Programs (Administrative Priorities), published in the **Federal Register** on March 9, 2020 (85 FR 13640), and we are codifying this language in EDGAR. As such, these changes will not generate any quantifiable costs and may benefit the Department and general public by improving the clarity and transparency of the Department's authority to provide special consideration to particular applicants.

Changes to § 75.234, which replace the word ''special'' with the word ''specific,'' are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.250, which update the heading and clarify that an extension of the project period is authorized by EDGAR only if the applicable statutes and regulations permit it, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.253, which allow a grantee whose request for a non-competitive continuation award has been denied to request reconsideration, could generate costs to affected grantees and the Department. In general, we do not deny a large number of non-competing continuation awards and, if that does happen, grantees are often aware of the likelihood of the decision well in advance and often cite no concerns if they do not receive a continuation award. Therefore, we do not believe that many grantees would qualify for the redress, and we do not believe that the few who may qualify would exercise the right. However, for the purpose of this analysis, we assume that we would process 10 such requests annually, which we believe is an overestimate of the likely incidence in order to capture the high end of potential costs. For each request, we assume a project director earning a loaded wage rate of $112.81 per hour, on average, would spend 24 hours drafting and submitting the request. At the Department, a program officer at the GS–13/1 level (loaded wage rate of $61.96 per hour) would spend approximately 8 hours reviewing each request, along with 2 hours for their supervisor at the GS–14/1 level (loaded wage rate of $72.69 per hour) to review. We also assume that a Department attorney at the GS–14/1 level (loaded wage rate of $72.69 per hour) would spend approximately 4 hours reviewing each request. In sum, we estimate that this provision would generate an additional cost of approximately $27,074 for grantees and $9,318 for the Department per year. In total, we estimate an additional cost of $36,392 per year.

The addition of a new § 75.254 gives the Secretary the authority to approve data collection periods. The language in this section is aligned with this previous authority under § 75.250(b) as well the Administrative Priorities and is just codifying this language in EDGAR. As such, these changes will not generate any quantifiable costs and may benefit the Department and general public by allowing for data collection periods that give grantees additional time to collect data to measure project impact.

Changes to § 75.261, which remove references to obsolete programs and make other edits, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.263, which remove the clause ''notwithstanding any requirement in 2 CFR part 200,'' are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to §§ 75.560–75.564, which align these sections with the Uniform Guidance and provide additional information on the application of indirect cost rates, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.590, which allow the Department to require the use of an independent evaluation in a program and include a confidentiality provision, would likely generate transfers for affected grantees. Specifically, we assume that grantees that are required to use an independent evaluator will transfer grant funds from their currently designated purpose (such as to defray the costs of an internal evaluation) to pay for an independent evaluation. We note, however, that we do not believe that these transfers would substantially affect the level of support that beneficiaries of our competitive grant programs receive; the grantees would have spent a certain percentage of their awards on evaluation, whether such evaluation is conducted by an internal or external entity. We believe that the most likely programs in which the Department would require an independent evaluation are those that include an expectation of a rigorous evaluation using selection factors related to What Works Clearinghouse evidence standards in project evaluations. From 2014 through 2022, we included such selection factors in 18 competitions (excluding programs that have their own independent evaluation requirements, such as Education Innovation and Research and its predecessor, Investing in Innovation, because these programs are already included in the baseline), with a combined average of $194.8 million in awards per year. Assuming that evaluation costs in these programs average approximately 15 percent of total project costs, we estimate that the evaluations for these competitions would cost approximately $29,227,000 in Year 1.

TABLE 1—ANNUAL TRANSFERS—CHANGES TO § 75.590

Year	Net annual transfer
Year 1	$29,226,998
Year 2	58,453,995
Year 3	87,680,993
Year 4	116,907,990
Year 5	146,134,988
Year 6	146,134,988
Year 7	146,134,988
Year 8	146,134,988
Year 9	146,134,988
Year 10	146,134,988
Total Net Present Value (NPV), 7%	770,534,217
Annualized, 7%	109,706,738
Total NPV, 3%	970,948,946
Annualized, 3%	113,824,837

Assuming equal-sized cohorts of new grants per year, we estimate that this total would increase through Year 5, when it would plateau at $146,135,000 per year. To the extent that grantees already use evaluators that would meet the requirements for an independent evaluation, this would represent an overestimate of the transfers associated with this provision.

Changes to § 75.591, which clarify how grantees cooperate with Federal research activities, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to §§ 75.600–75.615 and §§ 75.618–75.619, which restructure the sections on construction to improve the flow of the information, update citations, and include green building concepts that are optional and are for consideration in construction are

unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.620, which update language regarding Federal endorsement, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

The addition of § 75.623 requires certain grantees to submit final versions of Department-funded research publications to ERIC so that they are publicly available, aligning with the Department's September 2023 Plan for Public Access: Improving Access to Results of Federally Funded Scientific Research (Public Access Plan). Given that submission of the files would be a required grant activity, we do not anticipate that the requirement will generate any additional costs for grantees. To the extent that submissions would generate additional burdens, they would likely be minimal and would be properly considered transfers from support of other grant-related activities. Such transfers would be *de minimis.* Further, the addition of this requirement would generate benefits for the general public by increasing the availability of publicly supported research.

Changes to § 75.700 add existing Executive orders, which grantees must already comply with, to the list of authorities with which grantees must comply. These changes are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 75.708, which allow the Secretary to provide notice authorizing subgrants through the **Federal Register** or another reasonable means, may generate minimal efficiency returns to the Department by reducing burdens and costs associated with preparing a notice for publication in the **Federal Register**. However, we estimate that staff time to draft and compile these notices will likely remain unchanged and, therefore, do not estimate any changes in burden associated with this provision.

Changes to § 75.720 allow the Secretary to require grantees to publish their annual performance reports on a public-facing website, accounting for privacy and proprietary business information. Given that publishing their reports would be a required grant activity, we do not anticipate that the requirement will generate any additional costs for grantees. To the extent that the publishing of the report would generate additional burdens, they would likely be minimal and would be properly considered transfers from support of other grant-related activities. However, we believe that, to the extent that the requirement results in a shift in activities by grantees, it is possible that there would be minimal transfers. We estimate that it would take a web developer approximately 30 minutes to post a copy of the grantee's annual performance report on the website. Assuming a loaded wage rate of $91.90 per hour for web developers, we estimate that this requirement could generate transfers of approximately $46 per year per affected grantee. In FY 2023, the Department made approximately 9,470 grant awards. Assuming this requirement would be used in 20 percent of those grants, we estimate total transfers of approximately $87,124 per year.

Changes to § 75.732, which includes using records for continuous improvement, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 76.1, which ensure consistent reference to State-administered formula grant programs, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 76.50 clarify that, in the absence of a statutory or regulatory prohibition against subgranting, or in the absence of a term and condition in the grant award that would prohibit subgranting, States, consistent with 2 CFR 200.332, determine whether to make subgrants. These changes would likely generate cost savings for States through the reduced burden associated with making subgrants as opposed to contracts. However, we do not have sufficient information to quantify this impact and did not receive public comment on the cost savings associated with such a shift at the State level.

Changes to §§ 76.51–76.52 and 76.100 are for clarity only. They are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 76.101, which clarify the applicability of section 441 of GEPA, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 76.102, which remove a table and provide a general definition of the term ''State plan,'' are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 76.103, which remove extraneous text and simplify the section, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to §§ 76.125–76.136, which remove references to the Trust Territory of the Pacific Islands and make other minor updates that better align with current statutes, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to §§ 76.140–76.142, which, among other things, allow the Secretary to prescribe alternative amendment processes on a program-by-program basis, could generate benefits for both States and the Department. The changes provide the Secretary broad flexibility to prescribe alternative procedures, which makes it difficult to assess precisely the specific cost reductions that would occur. However, we assume that these alternative procedures would result in a net burden reduction of 2 hours for a management analyst at the State level and 0.5 hours for an administrator at the State level for each State plan revision under the ESEA. We assume that the loaded wage rate is $73.18 per hour for a management analyst at the State level and $109.88 per hour for an administrator at the State level. We further estimate that alternative procedures that are likely to be used would result in a burden reduction of 5 hours for a management analyst and 0.5 hours for a chief executive at the State level for each State plan revision under the Workforce Innovation and Opportunity Act (WIOA). We assume that the loaded wage rate is $161.20 per hour for a chief executive at the State level. We further assume, based on historical averages, an average of 15 State plan amendments under the ESEA and 52 State plan amendments under WIOA each year. In total, we estimate that these alternative procedures would reduce costs for States by approximately $26,238 per year. We also assume that the alternative procedures would reduce burden on Federal staff[2] by approximately 1 hour per State plan amendment for a total Federal savings of approximately $4,150 per year. In total, we estimate that these alternative procedures would reduce costs by approximately $30,389 per year.

Changes to § 76.260 are for clarity only. They are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

[2] One GS–13/1 staff earning a loaded wage rate of $61.96 per hour.

Changes to § 76.301, which clarify that section 442 of GEPA does not apply to LEA subgrantees, would not generate any quantifiable costs, and would benefit the Department and the general public by improving the clarity of the regulations.

Changes to § 76.400 are for clarity only. They are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 76.401, which clarify that a notice of appeal must include an allegation of a specific violation of law by the SEA, are likely to generate benefits for the Department by reducing the number of appeals that fail to state a claim that we receive and process each year. On average, we process approximately 10 appeals each year, with an attorney [3] spending approximately 30 hours reviewing each appeal. We estimate that this provision would reduce the number of appeals the Department receives each year by approximately 20 percent, resulting in a net savings of 60 hours per year or approximately $5,530 per year. We also believe that this provision would generate cost savings at the State level, but do not have sufficient information on the case load at the State level to make a reliable estimate and did not receive any public comments on the potential savings at the State level associated with this proposed change. While this statement of uncertainty was also included in the NPRM, we inadvertently included a benefit of $5,124 for States in the NPRM analysis model. We correct that inclusion here by removing that benefit from the model and reaffirm that we do not have sufficient information to make a reliable estimate on cost savings at the State level associated with this proposed change.

Changes to §§ 76.500, 76.532, and 76.533 are for clarity only. They are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to §§ 76.560–580, which align these sections with the Uniform Guidance and provide additional information on the application of indirect cost rates, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 76.600 relate to updates regarding construction regulations to align with current statutes and regulations and are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

We are retaining §§ 76.650–76.651 and 76.653–76.662 as they exist in current regulations, with minor updates for clarity and accuracy, rather than making the changes proposed NPRM, and therefore the revisions to those sections should not generate any quantifiable costs.

The change in § 76.652 to refer to § 299.7 regarding consultation with representatives of private school students is unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

We are removing and reserving §§ 76.670–76.677. Since the only programs that were subject to these provisions are already subject to bypass procedures under the ESEA, which are now spelled out in §§ 299.18–299.28 (see below), there should not be any quantifiable costs to the removal of §§ 76.670–76.677.

Changes to §§ 76.702, 76.707–76.711, and 76.714 are for clarity only. They are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 76.720, which clarify continuous improvement efforts in State reporting requirements, would not generate any quantifiable costs and would benefit the Department and the general public by improving the clarity of the regulations.

Changes to § 76.722, which clarify periodic review and continuous improvement efforts in subgrantee reporting requirements, would not generate any quantifiable costs and would benefit the Department and the general public by improving the clarity of the regulations.

Changes to § 76.732, which includes using records for continuous improvement, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations. Changes to § 76.740 are for clarity only. They are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 76.783 indicate that a subgrantee may request a hearing related to an SEA's failure to provide an amount of funds in accordance with the requirements of applicable statutes and regulations. These changes would not generate any additional costs as this circumstance was previously contemplated in § 76.401 from which relevant provisions would be moved to § 76.783 for clarity.

Changes to §§ 76.785–76.788, and 76.900–76.901 are for clarity only. They are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to § 77.1(c), which update existing definitions, remove unnecessary definitions, and add new definitions, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to part 79, which remove outdated statutory references, are unlikely to generate any quantifiable costs and may benefit the Department and general public by improving the clarity of the regulations.

Changes to part 299, which reflect statutory changes, are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations.

New §§ 299.16–299.17 specify what must be included in an SEA's resolution of a complaint and a party's appeal to the Secretary of an SEA decision. The specific elements listed in these sections are all what a legal decision or appeal should already include (such as a description of applicable statutory and regulatory requirements, legal analysis and conclusions, and supporting documentation). When the Department receives records on appeal that do not include one or more of these elements, we go back to the parties to request the missing element(s). Specifying the elements we need to issue a decision will prevent this unnecessary delay; we do not think that the specific elements will generate quantifiable costs, however, because, as noted above, these are items that parties should already be including.

Additions of §§ 299.18–299.28 regarding the procedures for a bypass in providing equitable services to eligible private school children, teachers or other educational personnel, and families, as applicable, are unlikely to generate any quantifiable costs and may benefit the Department and the general public by improving the clarity of the regulations. These sections reflect only minor updates to information previously contained in §§ 76.670–76.677, which will be deleted, as previously discussed.

In total, we estimate that these final regulations will result in a net increase in costs of approximately $100 per year with transfers of $109.8 million per year at a 7% discount rate or $113.9 million per year at a 3% discount rate. Of the

[3] One GS–14/10 Federal attorney earning a loaded wage rate of $92.18 per hour.

net benefit, approximately $200would accrue to grantees. The remaining approximately $400 in net additional benefits would accrue to the Department.

As noted above, we do not anticipate any meaningful, quantifiable impact from the majority of these final regulations. However, for those provisions for which we do estimate impacts, we summarize those impacts below using 3 and 7 percent discount rates, consistent with OMB Circular A–4:

Provision	Benefits	
	3% discount rate	7% discount rate
§ 75.109—Reduce the number of paper copies of an application to be submitted	$375	$375
§ 76.140–142—Amendments to State Plan	30,389	30,389
§ 76.401—Disapproval of an application	5,531	5,531
Costs		
§ 75.253—Request for Reconsideration	(36,392)	(36,392)
Transfers		
§ 75.590—Independent evaluation	113,824,837	109,706,738
§ 75.720—Financial and Performance Reports	87,124	87,124

Regulatory Flexibility Act Certification

The Secretary certifies that this regulatory action would not have a significant economic impact on a substantial number of small entities. The Small Business Administration Size Standards for ''proprietary institutions of higher education'' are set out in 13 CFR 121.201. ''Nonprofit institutions'' are defined as small entities if they are independently owned and operated and not dominant in their field of operation. *See* 5 U.S.C. 601(4). ''Public institutions and LEAs'' are defined as small organizations if they are operated by a government overseeing a population below 50,000. *See* 5 U.S.C. 601(5). This final rule also applies to States. States are not small governmental organizations.

Of the impacts we estimate accruing to grantees or eligible entities, all are voluntary and related mostly to an increase in the number of applications prepared and submitted annually for competitive grant competitions. Therefore, we do not believe that these regulations present any significant impact on small entities beyond the potential for increasing the likelihood of their applying for, and receiving, competitive grants from the Department.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control number assigned to the collection of information in these final regulations at the end of the affected sections of the regulations.

We anticipate that changes to §§ 76.140–76.142 would reduce State burden under existing information collection requirements by approximately 323 hours per year (see *Costs and Benefits* for more information on this estimate). The valid OMB control number for that information collection is 1810–0576.

Intergovernmental Review

These programs are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for these programs.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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List of Subjects

34 CFR Part 75

Accounting; Copyright; Education; Grant programs—education; Incorporation by reference; Indemnity payments; Inventions and patents; Private schools; Reporting and recordkeeping requirements; Youth organizations.

34 CFR Part 76

Accounting; Administrative practice and procedure; American Samoa; Education; Grant programs—education; Guam; Northern Mariana Islands; Pacific Islands Trust Territory; Prisons; Private schools; Reporting and recordkeeping requirements; Virgin Islands; Youth organizations.

34 CFR Part 77

Education; Incorporation by reference; Grant programs—education.

34 CFR Part 79

Intergovernmental relations.

34 CFR Part 299

Administrative practice and procedure; Elementary and secondary education; Grant programs—education;

Private schools; Reporting and recordkeeping requirements.

Roberto J. Rodriguez,

Assistant Secretary for Planning, Evaluation and Policy Development.

For the reasons discussed in the preamble, the Secretary amends parts 75, 76, 77, 79, and 299 of title 34 of the Code of Federal Regulations as follows:

PART 75—DIRECT GRANT PROGRAMS

■ 1. The authority citation for part 75 is revised to read as follows:

Authority: 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

Section 75.263 also issued under 2 CFR 200.308(e)(1).

Section 75.617 also issued under 31 U.S.C. 3504, 3505.

Section 75.740 also issued under 20 U.S.C. 1232g and 1232h.

■ 2. Revise § 75.1 to read as follows:

§ 75.1 Programs to which part 75 applies.

(a) *General.* (1) The regulations in this part apply to each direct grant program of the Department of Education, except as specified in these regulations for direct formula grant programs, as referenced in paragraph (c)(3) of this section.

(2) The Department administers two kinds of direct grant programs. A direct grant program is either a discretionary grant program or a formula grant program other than a State-administered formula grant program covered by 34 CFR part 76.

(3) If a direct grant program does not have implementing regulations, the Secretary implements the program under the applicable statutes and regulations and, to the extent consistent with the applicable statutes and regulations, under the General Education Provisions Act and the regulations in this part. With respect to the Impact Aid Program (Title VII of the Elementary and Secondary Education Act of 1965), see 34 CFR 222.19 for the limited applicable regulations in this part.

(b) *Discretionary grant programs.* A discretionary grant program is one that permits the Secretary to use discretionary judgment in selecting applications for funding.

(c) *Formula grant programs.* (1) A formula grant program is one that entitles certain applicants to receive grants if they meet the requirements of the program. Applicants do not compete with each other for the funds, and each grant is either for a set amount or for an amount determined under a formula.

(2) The Secretary applies the applicable statutes and regulations to fund projects under a formula grant program.

(3) For specific regulations in this part that apply to the selection procedures and grant-making processes for direct formula grant programs, see §§ 75.215 and 75.230.

Note 1 to § 75.1: See 34 CFR part 76 for the general regulations that apply to programs that allocate funds by formula among eligible States.

§ 75.4 [Removed and Reserved]

■ 3. Remove and reserve § 75.4.

§ 75.50 [Amended]

■ 4. Amend § 75.50 by removing the words ''the authorizing statute'' and adding in their place the words ''applicable statutes and regulations''.

§ 75.51 [Amended]

■ 5. Amend § 75.51 in paragraph (a) by removing the parenthetical sentence ''(See the definition of *nonprofit* in 34 CFR 77.1.)''.

■ 6. Revise § 75.60 to read as follows:

§ 75.60 Individuals ineligible to receive assistance.

An individual is ineligible to receive a fellowship, scholarship, or discretionary grant funded by the Department if the individual—

(a) Is not current in repaying a debt or is in default, as that term is used in 34 CFR part 668, on a debt—

(1) Under a program administered by the Department under which an individual received a fellowship, scholarship, or loan that they are obligated to repay; or

(2) To the Federal Government under a nonprocurement transaction; and

(b) Has not made satisfactory arrangements to repay the debt.

§ 75.61 [Amended]

■ 7. Amend section 75.61 by:

■ a. In paragraph (a)(2), removing the words ''section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a)'' and adding in their place the words ''section 421 of the Controlled Substances Act (21 U.S.C. 862)''; and

■ b. Removing the parenthetical authority citation at the end of the section.

§ 75.62 [Amended]

■ 8. Amend § 75.62 by:

■ a. In paragraph (a)(2), removing the words ''section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 853a)'' and adding, in their place, the words ''section 421 of the Controlled Substances Act (21 U.S.C. 862)''; and

■ b. Removing the parenthetical authority citation at the end of the section.

■ 9. Amend § 75.101 by:

■ a. Revising paragraph (a)(1);

■ b. Adding a period after ''assistance?)'' in paragraph (a)(7); and

■ c. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 75.101 Information in the application notice that helps an applicant apply.

(a) * * *

(1) How an applicant can obtain an application package.

* * * * *

§ 75.102 [Amended]

■ 10. Amend § 75.102 by removing and reserving paragraph (b) and removing the parenthetical authority citation at the end of the section.

§ 75.103 [Amended]

■ 11. Amend § 75.103 by:

■ a. Removing in paragraph (b) the citation ''§ 75.102(b) and (d)'' and adding in its place the citation ''§ 75.102(d)''; and

■ b. Removing the parenthetical authority citation at the end of the section.

■ 12. Amend § 75.104 by:

■ a. Revising the section heading;

■ b. Adding paragraph (c); and

■ c. Removing the parenthetical authority citation at the end of the section.

The revision and addition read as follows.

§ 75.104 Additional application provisions.

* * * * *

(c) If an applicant wants a new grant, the applicant must submit an application in accordance with the requirements in the application notice.

■ 13. Amend § 75.105 by:

■ a. Revising the section heading;

■ b. In paragraph (b)(2)(i), removing the words ''by inviting applications that meet the priorities'' and adding in their place the words ''through invitational priorities'';

■ c. In paragraph (b)(2)(iii), removing the words ''seriously interfere with an orderly, responsible grant award process or would otherwise'';

■ d. In paragraph (b)(2)(iv), removing the word ''or'' after the semicolon;

■ e. In paragraph (b)(2)(v), removing the period and adding in its place ''; or'';

■ f. Adding paragraph (b)(2)(vi);

■ g. Removing the words ''high quality'' in paragraph (c)(3) and adding in their place the words ''high-quality''; and

■ h. Removing the parenthetical authority citation at the end of the section.

The revision and addition read as follows:

§ 75.105 Annual absolute, competitive preference, and invitational priorities.

* * * * *

(b) * * *

(2) * * *

(vi) The final annual priorities are developed under the exemption from rulemaking for the first grant competition under a new or substantially revised program authority pursuant to section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1), or an exemption from rulemaking under section 681(d) of the Individuals with Disabilities Education Act, 20 U.S.C. 1481(d), section 191 of the Education Sciences Reform Act, 20 U.S.C. 9581, or any other applicable exemption from rulemaking.

* * * * *

■ 14. Revise § 75.109 to read as follows:

§ 75.109 Changes to applications.

An applicant may make changes to its application on or before the deadline date for submitting the application under the program.

■ 15. Revise § 75.110 to read as follows:

§ 75.110 Information regarding performance measurement.

(a) The Secretary may establish, in an application notice for a competition, one or more program performance measurement requirements, including requirements for performance measures, baseline data, or performance targets, and a requirement that applicants propose in their applications one or more of their own project-specific performance measures, baseline data, or performance targets and ensure that the applicant's project-specific performance measurement plan would, if well implemented, yield quality data.

(b) If the application notice establishes program performance measurement requirements, the applicant must also describe in the application—

(1)(i) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and

(ii) If the Secretary requires applicants to collect data after the substantive work of a project is complete in order to measure progress toward attaining certain performance targets, the data-collection and reporting methods the applicant would use during the post-performance period and why those methods are likely to yield quality data.

(2) The applicant's capacity to collect and report the quality of the performance data, as evidenced by quality data collection, analysis, and reporting in other projects or research.

(c) If an application notice requires applicants to propose project-specific performance measures, baseline data, or performance targets, the application must include the following, as required by the application notice:

(1) *Project-specific performance measures.* How each proposed project-specific performance measure would: accurately measure the performance of the project; be consistent with the program performance measures established under paragraph (a) of this section; and be used to inform continuous improvement of the project.

(2) *Baseline data.* (i) Why each proposed baseline is valid and reliable, including an assessment of the quality data used to establish the baseline; or

(ii) If the applicant has determined that there are no established baseline data for a particular performance measure, an explanation of why there is no established baseline and of how and when, during the project period, the applicant would establish a valid baseline for the performance measure.

(3) *Performance targets.* Why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure and when, during the project period, the applicant would meet the performance target(s).

■ 16. Amend § 75.112 by:

■ a. Revising the section heading and paragraph (b);

■ b. Adding paragraph (c); and

■ c. Removing the parenthetical authority citation at the end of the section.

The revisions and addition read as follows:

§ 75.112 Include a proposed project period, timeline, project narrative, and a logic model or other conceptual framework.

* * * * *

(b) An application must include a narrative that describes how the applicant plans to meet each objective of the project and, as appropriate, how the applicant intends to use continuous improvement strategies in its project implementation based on periodic review of research, data, community input, or other feedback to advance the programmatic objectives most effectively and efficiently, in each budget period of the project.

(c) The Secretary may establish, in an application notice, a requirement to include a logic model or other conceptual framework.

§ 75.117 [Amended]

■ 17. Amend § 75.117 in paragraph (a) by adding ''and'' after the semicolon.

§ 75.118 [Amended]

■ 18. Amend § 75.118 by:

■ a. In paragraph (a), removing ''2 CFR 200.327 and 200.328'' and adding in its place ''2 CFR 200.328 and 200.329''; and

■ b. Removing the parenthetical authority citation at the end of the section.

■ 19. Amend § 75.127 by:

■ a. Redesignating paragraphs (b)(3) and (4) as paragraphs (b)(4) and (5), respectively;

■ b. Adding new paragraph (b)(3) and paragraph (c); and

■ c. Removing the parenthetical authority citation at the end of the section.

The additions read as follows:

§ 75.127 Eligible parties may apply as a group.

* * * * *

(b) * * *

(3) Partnership.

* * * * *

(c) In the case of a group application submitted in accordance with §§ 75.127 through 75.129, all parties in the group must be eligible applicants under the competition.

§ 75.135 [Amended]

■ 20. Amend § 75.135 by:

■ a. In paragraph (a) introductory text, removing the citation ''2 CFR 200.320(c) and (d)'' and adding in its place the citation ''2 CFR 200.320(b)''; and

■ b. In paragraph (b) introductory text, removing the citation ''2 CFR 200.320(b)'' and adding in its place the citation ''2 CFR 200.320(a)(2)''.

§ 75.155 [Amended]

■ 21. Amend § 75.155 by removing the words ''the authorizing statute for a program requires'' and adding in their place the words ''applicable statutes and regulations require''.

§ 75.157 [Amended]

■ 22. Amend § 75.157 by removing the parenthetical authority citation at the end of the section.

§ 75.158 [Amended]

■ 23. Amend § 75.158 by:

■ a. In paragraph (c), removing the citation ''§ 75.102(b) and (d)'' and adding in its place the citation ''§ 75.102(d)''; and

■ b. Removing the parenthetical authority citation at the end of the section.

§§ 75.190 through 75.192 [Removed and Reserved]

■ 24. Remove the undesignated section heading before § 75.190, and remove and reserve §§ 75.190 through 75.192.

■ 25. Revise the undesignated center heading before § 75.200 and revise § 75.200 to read as follows:

Selection of New Discretionary Grant Projects

§ 75.200 How applications for new discretionary grants and cooperative agreements are selected for funding; standards for use of cooperative agreements.

(a) The Secretary uses selection criteria to evaluate the applications submitted for new grants under a discretionary grant program.

(b) To evaluate the applications for new grants under the program, the Secretary may use—

(1) Selection criteria established under § 75.209;

(2) Selection criteria in § 75.210; or

(3) Any combination of criteria from paragraphs (b)(1) and (2) of this section.

(c)(1) The Secretary may award a cooperative agreement instead of a grant if the Secretary determines that substantial involvement between the Department and the recipient is necessary to carry out a collaborative project.

(2) The Secretary uses the selection procedures in this subpart to select recipients of cooperative agreements.

§ 75.201 [Amended]

■ 26. Amend § 75.201 by:

■ a. In paragraph (b), adding the words ''or factors'' after the words ''selection criteria'';

■ b. In paragraph (c), removing the word ''and'' between the words ''selection criteria'' and ''selected factors'' and adding in its place the word ''or''; and

■ c. Removing the parenthetical authority citation at the end of the section.

§ 75.209 [Amended]

■ 27. Amend § 75.209 by:

■ a. In the introductory text, adding a comma immediately after ''limited to''; and

■ b. In paragraph (c), removing the words ''the program statute or regulations'' and adding in their place the words ''applicable statutes and regulations''.

■ 28. Revise § 75.210 to read as follows:

§ 75.210 General selection criteria.

In determining the selection criteria to evaluate applications submitted in a grant competition, the Secretary may select one or more of the following criteria and may select from among the list of optional factors under each criterion. The Secretary may define a selection criterion by selecting one or more specific factors within a criterion or assigning factors from one criterion to another criterion.

(a) *Need for the project.* (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers one or more of the following factors:

(i) The data presented (including a comparison to local, State, regional, national, or international data) that demonstrates the issue, challenge, or opportunity to be addressed by the proposed project.

(ii) The extent to which the proposed project demonstrates the magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(iii) The extent to which the proposed project will provide support, resources, or services; or otherwise address the needs of the target population, including addressing the needs of underserved populations most affected by the issue, challenge, or opportunity, to be addressed by the proposed project and close gaps in educational opportunity.

(iv) The extent to which the proposed project will focus on serving or otherwise addressing the needs of underserved populations.

(v) The extent to which the specific nature and magnitude of gaps or challenges are identified and the extent to which these gaps or challenges will be addressed by the services, supports, infrastructure, or opportunities described in the proposed project.

(vi) The extent to which the proposed project will prepare individuals from underserved populations for employment in fields and careers in which there are demonstrated shortages.

(b) *Significance.* (1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the proposed project is relevant at the national level.

(ii) The significance of the problem or issue as it affects educational access and opportunity, including the underlying or related challenges for underserved populations.

(iii) The extent to which findings from the project's implementation will contribute new knowledge to the field by increasing knowledge or understanding of educational challenges, including the underlying or related challenges, and effective strategies for addressing educational challenges and their effective implementation.

(iv) The potential contribution of the proposed project to improve the provision of rehabilitative services, increase the number or quality of rehabilitation counselors, or develop and implement effective strategies for providing vocational rehabilitation services to individuals with disabilities.

(v) The likelihood that the proposed project will result in systemic change that supports continuous, sustainable, and measurable improvement.

(vi) The potential contribution of the proposed project to the development and advancement of theory, knowledge, and practices in the field of study, including the extent to which the contributions may be used by other appropriate agencies, organizations, institutions, or entities.

(vii) The potential for generalizing from the findings or results of the proposed project.

(viii) The extent to which the proposed project is likely to build local, State, regional, or national capacity to provide, improve, sustain, or expand training or services that address the needs of underserved populations.

(ix) The extent to which the proposed project involves the development or demonstration of innovative and effective strategies that build on, or are alternatives to, existing strategies.

(x) The extent to which the proposed project is innovative and likely to be more effective compared to other efforts to address a similar problem.

(xi) The likely utility of the resources (such as materials, processes, techniques, or data infrastructure) that will result from the proposed project, including the potential for effective use in a variety of conditions, populations, or settings.

(xii) The extent to which the resources, tools, and implementation lessons of the proposed project will be disseminated in ways to the target population and local community that will enable them and others (including practitioners, researchers, education leaders, and partners) to implement similar strategies.

(xiii) The potential effective replicability of the proposed project or strategies, including, as appropriate, the potential for implementation by a variety of populations or settings.

(xiv) The importance or magnitude of the results or outcomes likely to be attained by the proposed project,

especially contributions toward improving teaching practice and student learning and achievement.

(xv) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in employment, independent living services, or both, as appropriate.

(xvi) The importance or magnitude of the results or outcomes likely to be attained by the proposed project that demonstrate its impact for the targeted underserved populations in terms of breadth and depth of services.

(xvii) The extent to which the proposed project introduces an innovative approach, such as a modification of an evidence-based project component to serve different populations, an extension of an existing evidence-based project component, a unique composition of various project components to explore combined effects, or development of an emerging project component that needs further testing.

(c) *Quality of the project design.* (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers one or more of the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified, measurable, and ambitious yet achievable within the project period, and aligned with the purposes of the grant program.

(ii) The extent to which the design of the proposed project demonstrates meaningful community engagement and input to ensure that the project is appropriate to successfully address the needs of the target population or other identified needs and will be used to inform continuous improvement strategies.

(iii) The quality of the logic model or other conceptual framework underlying the proposed project, including how inputs are related to outcomes.

(iv) The extent to which the proposed project's logic model or other conceptual framework was developed based on engagement of a broad range of community members and partners.

(v) The extent to which the proposed project proposes specific, measurable targets, connected to strategies, activities, resources, outputs, and outcomes, and uses reliable administrative data to measure progress and inform continuous improvement.

(vi) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to enable successful achievement of project objectives.

(vii) The quality of the proposed demonstration design, such as qualitative and quantitative design, and procedures for documenting project activities and results for underserved populations.

(viii) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including valid and reliable information about the effectiveness of the approach or strategies employed by the project.

(ix) The extent to which the proposed development efforts include adequate quality controls, continuous improvement efforts, and, as appropriate, repeated testing of products.

(x) The extent to which the proposed project demonstrates that it is designed to build capacity and yield sustainable results that will extend beyond the project period.

(xi) The extent to which the design of the proposed project reflects the most recent and relevant knowledge and practices from research and effective practice.

(xii) The extent to which the proposed project represents an exceptional approach to meeting program purposes and requirements and serving the target population.

(xiii) The extent to which the proposed project represents an exceptional approach to any absolute priority or absolute priorities used in the competition.

(xiv) The extent to which the proposed project will integrate or build on ideas, strategies, and efforts from similar external projects to improve relevant outcomes, using existing funding streams from other programs or policies supported by community, State, and Federal resources.

(xv) The extent to which the proposed project is informed by similar past projects implemented by the applicant with demonstrated results.

(xvi) The extent to which the proposed project will include coordination with other Federal investments, as well as appropriate agencies and organizations providing similar services to the target population.

(xvii) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards and increased social, emotional, and educational development for students, including members of underserved populations.

(xviii) The extent to which the proposed project includes explicit plans for authentic, meaningful, and ongoing community member and partner engagement, including their involvement in planning, implementing, and revising project activities for underserved populations.

(xix) The extent to which the proposed project includes plans for consumer involvement.

(xx) The extent to which performance feedback and formative data are integral to the design of the proposed project and will be used to inform continuous improvement.

(xxi) The extent to which fellowship recipients or other project participants are to be selected on the basis of academic excellence.

(xxii) The extent to which the applicant demonstrates that it has the resources to operate the project beyond the project period, including a multiyear financial and operating model and accompanying plan; the demonstrated commitment of any partners; demonstration of broad support from community members and partners (such as State educational agencies, teachers' unions, families, business and industry, community members, and State vocational rehabilitation agencies) that are critical to the project's long-term success; or a plan for capacity-building by leveraging one or more of these types of resources.

(xxiii) The extent to which there is a plan to incorporate the project purposes, activities, or benefits into the ongoing work of the applicant beyond the end of the project period.

(xxiv) The extent to which the proposed project will increase efficiency in the use of time, staff, money, or other resources in order to improve results and increase productivity.

(xxv) The extent to which the proposed project will integrate with, or build on, similar or related efforts in order to improve relevant outcomes, using nonpublic funds or resources.

(xxvi) The extent to which the proposed project demonstrates a rationale that is aligned with the purposes of the grant program.

(xxvii) The extent to which the proposed project represents implementation of the evidence cited in support of the proposed project with fidelity.

(xxviii) The extent to which the applicant plans to allocate a significant portion of its requested funding to the evidence-based project components.

(xxix) The strength of the commitment from key decision-makers at proposed implementation sites.

(d) *Quality of project services.* (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equitable and adequate access and participation for project participants who experience barriers based on one or more of the following: economic disadvantage; gender; race; ethnicity; color; national origin; disability; age; language; migration; living in a rural location; experiencing homelessness or housing insecurity; involvement with the justice system; pregnancy, parenting, or caregiver status; and sexual orientation. This determination includes the steps developed and described in the form Equity For Students, Teachers, And Other Program Beneficiaries (OMB Control No. 1894–0005) (section 427 of the General Education Provisions Act (20 U.S.C. 1228a)).

(3) In addition, the Secretary considers one or more of the following factors:

(i) The extent to which the services to be provided by the proposed project were determined with input from the community to be served to ensure that they are appropriate and responsive to the needs of the intended recipients or beneficiaries, including underserved populations, of those services.

(ii) The extent to which the proposed project is supported by the target population that it is intended to serve.

(iii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge and an evidence-based project component.

(iv) The likely benefit to the intended recipients, as indicated by the logic model or other conceptual framework, of the services to be provided.

(v) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to build recipient and project capacity in ways that lead to improvements in practice among the recipients of those services.

(vi) The extent to which the services to be provided by the proposed project are likely to provide long-term solutions to alleviate the personnel shortages that have been identified or are the focus of the proposed project.

(vii) The likelihood that the services to be provided by the proposed project will lead to meaningful improvements in the achievement of students as measured against rigorous and relevant standards.

(viii) The likelihood that the services to be provided by the proposed project will lead to meaningful improvements in early childhood and family outcomes.

(ix) The likelihood that the services to be provided by the proposed project will lead to meaningful improvements in the skills and competencies necessary to gain employment in high-quality jobs, careers, and industries or build capacity for independent living.

(x) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners, including those from underserved populations, to maximize the effectiveness of project services.

(xi) The extent to which the services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources.

(xii) The extent to which the services to be provided by the proposed project are focused on recipients, community members, or project participants that are most underserved as demonstrated by the data relevant to the project.

(e) *Quality of the project personnel.* (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant demonstrates that it has project personnel or a plan for hiring of personnel who are members of groups that have historically encountered barriers, or who have professional or personal experiences with barriers, based on one or more of the following: economic disadvantage; gender; race; ethnicity; color; national origin; disability; age; language; migration; living in a rural location; experiencing homelessness or housing insecurity; involvement with the justice system; pregnancy, parenting, or caregiver status; and sexual orientation.

(3) In addition, the Secretary considers one or more of the following factors:

(i) The extent to which the project director or principal investigator, when hired, has the qualifications required for the project, including formal training or work experience in fields related to the objectives of the project and experience in designing, managing, or implementing similar projects for the target population to be served by the project.

(ii) The extent to which the key personnel in the project, when hired, have the qualifications required for the proposed project, including formal training or work experience in fields related to the objectives of the project, and represent or have lived experiences of the target population.

(iii) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(iv) The extent to which the proposed project team maximizes diverse perspectives, for example by reflecting the lived experiences of project participants, or relevant experience working with the target population.

(v) The extent to which the proposed planning, implementing, and evaluating project team are familiar with the assets, needs, and other contextual considerations of the proposed implementation sites.

(f) *Adequacy of resources.* (1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers one or more of the following factors:

(i) The adequacy of support for the project, including facilities, equipment, supplies, and other resources, from the applicant or the lead applicant organization.

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(iii) The extent to which the budget is adequate to support the proposed project and the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(iv) The extent to which the costs are reasonable in relation to the number of persons to be served, the depth and intensity of services, and the anticipated results and benefits.

(v) The extent to which the costs of the proposed project would permit other entities to replicate the project.

(vi) The level of initial matching funds or other commitment from partners, indicating the likelihood for potential continued support of the project after Federal funding ends.

(vii) The potential for the purposes, activities, or benefits of the proposed project to be institutionalized into the ongoing practices and programs of the applicant, agency, or organization and continue after Federal funding ends.

(g) *Quality of the management plan.* (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed

project, the Secretary considers one or more of the following factors:

(i) The feasibility of the management plan to achieve project objectives and goals on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The adequacy of plans for ensuring the use of quantitative and qualitative data, including meaningful community member and partner input, to inform continuous improvement in the operation of the proposed project.

(iii) The adequacy of mechanisms for ensuring high-quality and accessible products and services from the proposed project for the target population.

(iv) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(v) How the applicant will ensure that a diversity of perspectives, including those from underserved populations, are brought to bear in the design, implementation, operation, evaluation, and improvement of the proposed project, including those of parents, educators, community-based organizations, civil rights organizations, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(h) *Quality of the project evaluation or other evidence-building.* (1) The Secretary considers the quality of the evaluation or other evidence-building of the proposed project.

(2) In determining the quality of the evaluation or other evidence-building, the Secretary considers one or more of the following factors:

(i) The extent to which the methods of evaluation or other evidence-building are thorough, feasible, relevant, and appropriate to the goals, objectives, and outcomes of the proposed project.

(ii) The extent to which the methods of evaluation or other evidence-building are appropriate to the context within which the project operates and the target population of the proposed project.

(iii) The extent to which the methods of evaluation or other evidence-building are designed to measure the fidelity of implementation of the project.

(iv) The extent to which the methods of evaluation or other evidence-building include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quality data that are quantitative and qualitative.

(v) The extent to which the methods of evaluation or other evidence-building will provide guidance for quality assurance and continuous improvement.

(vi) The extent to which the methods of evaluation or other evidence-building will provide performance feedback and provide formative, diagnostic, or interim data that is a periodic assessment of progress toward achieving intended outcomes.

(vii) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing and potential implementation in other settings.

(viii) The extent to which the methods of evaluation will, if well implemented, produce evidence about the effectiveness of the project on relevant outcomes that would meet the What Works Clearinghouse standards without reservations, as described in the What Works Clearinghouse Handbooks.

(ix) The extent to which the methods of evaluation will, if well implemented, produce evidence about the effectiveness of the project on relevant outcomes that would meet the What Works Clearinghouse standards with or without reservations, as described in the What Works Clearinghouse Handbooks.

(x) The extent to which the methods of evaluation include an experimental study, a quasi-experimental design study, or a correlational study with statistical controls for selection bias (such as regression methods to account for differences between a treatment group and a comparison group) to assess the effectiveness of the project on relevant outcomes.

(xi) The extent to which the evaluation employs an appropriate analytic strategy to build evidence about the relationship between key project components, mediators, and outcomes and inform decisions on which project components to continue, revise, or discontinue.

(xii) The quality of the evaluation plan for measuring fidelity of implementation, including thresholds for acceptable implementation, to inform how implementation is associated with outcomes.

(xiii) The extent to which the evaluation plan includes a dissemination strategy that is likely to promote others' learning from the project.

(xiv) The extent to which the evaluator has the qualifications, including the relevant training, experience, and independence, required to conduct an evaluation of the proposed project, including experience conducting evaluations of similar methodology as proposed and with evaluations for the proposed population and setting.

(xv) The extent to which the proposed project plan includes sufficient resources to conduct the project evaluation effectively.

(xvi) The extent to which the evaluation will access and link high-quality administrative data from authoritative sources to improve evaluation quality and comprehensiveness.

(i) *Strategy to scale.* (1) The Secretary considers the applicant's strategy to effectively scale the proposed project for recipients, community members, and partners, including to underserved populations.

(2) In determining the applicant's strategy to effectively scale the proposed project, the Secretary considers one or more of the following factors:

(i) The quality of the strategies to reach scale by expanding the project to new populations or settings.

(ii) The applicant's capacity (such as qualified personnel, financial resources, or management capacity), together with any project partners, to bring the proposed project effectively to scale on a national or regional level during the grant period.

(iii) The applicant's capacity (such as qualified personnel, financial resources, or management capacity), together with any project partners, to further develop and bring the proposed project effectively to scale on a national level during the grant period, based on the findings of the proposed project.

(iv) The quality of the mechanisms the applicant will use to broadly disseminate information and resources on its project to support further development, adaptation, or replication by other entities to implement project components in additional settings or with other populations.

(v) The extent to which there is unmet demand for broader implementation of the project that is aligned with the proposed level of scale.

(vi) The extent to which there is a market of potential entities that will commit resources toward implementation.

(vii) The quality of the strategies to scale that take into account and are responsive to previous barriers to expansion.

(viii) The quality of the plan to deliver project services more efficiently at scale and maintain effectiveness.

(ix) The quality of the plan to develop revenue sources that will make the project self-sustaining.

(x) The extent to which the project will create reusable data and evaluation tools and techniques that facilitate expansion and support continuous improvement.

■ 29. Revise § 75.215 to read as follows:

§ 75.215 How the Department selects a new project.

Sections 75.216 through 75.222 describe the process the Secretary uses to select applications for new grants. All these sections apply to a discretionary grant program. However, only § 75.216 applies also to a formula grant program. (See § 75.1(b) Discretionary grant programs, § 75.1(c) Formula grant programs, and § 75.200, How applications for new discretionary grants and cooperative agreements are selected for funding; standards for use of cooperative agreements.)

■ 30. Revise § 75.216 to read as follows:

§ 75.216 Applications that the Secretary may choose not to evaluate for funding.

The Secretary may choose not to evaluate an application if—

(a) The applicant does not comply with all of the procedural rules that govern the submission of the application; or

(b) The application does not contain the information required under the program.

§ 75.217 [Amended]

■ 31. Amend § 75.217 by:

■ a. In paragraph (a), removing the words ''the authorizing statute'' and adding in their place the words ''applicable statutes and regulations'';

■ b. In paragraph (c), removing the word ''solely'' and adding the words ''and any competitive preference points'' after the words ''selection criteria''; and

■ c. Removing the parenthetical authority citation at the end of the section.

■ 32. Amend § 75.219 by:

■ a. Revising paragraph (b); and

■ b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 75.219 Exceptions to the procedures under § 75.217.

* * * * *

(b)(1) The application was submitted under the program's preceding competition;

(2) The application was not selected for funding because the application was mishandled or improperly processed by the Department; and

(3) The application has been rated highly enough to deserve selection under § 75.217; or

* * * * *

§ 75.220 [Amended]

■ 33. Amend § 75.220 by:

■ a. In paragraph (b)(2), removing the words ''Office of the Chief Financial Officer (OCFO)'' and adding, in their place, the words ''Office of Finance and Operations (OFO)''; and

■ b. Removing the parenthetical authority citation at the end of the section.

■ 34. Revise § 75.221 to read as follows:

§ 75.221 Procedures the Department uses under § 75.219(b).

If the Secretary has documentary evidence that the special circumstances of § 75.219(b) exist for an application, the Secretary may select the application for funding.

§ 75.222 [Amended]

■ 35. Amend § 75.222 by:

■ a. In paragraph (a)(1), removing the word ''under'' before ''which funds'' and adding in its place the word ''for'';

■ b. In paragraph (a)(2)(ii)(B), removing the citation ''(a)(2)(ii)'' and adding in its place the citation ''(a)(2)(ii)(A)'';

■ c. In paragraph (b)(1), removing the word ''ED'' and adding, in its place, the word ''the Department'';

■ d. Removing, in paragraph (b)(2), the word ''codified'';

■ e. Revising the Note; and

■ f. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 75.222 Procedures the Department uses under § 75.219(c).

* * * * *

Note 1 to § 75.222: To ensure prompt consideration, an applicant submitting an unsolicited application should send the application, marked ''Unsolicited Application'' on the outside, to U.S. Department of Education, OFO/G6 Functional Application Team, Mail Stop 5C231, 400 Maryland Avenue SW, Washington, DC 20202–4260.

■ 36. Revise § 75.225 to read as follows:

§ 75.225 What procedures does the Secretary use when deciding to give special consideration to new potential grantees?

(a) If the Secretary determines that special consideration of new potential grantees is appropriate, the Secretary may: provide competitive preference to applicants that meet one or more of the conditions in paragraph (b) of this section; or provide special consideration for new potential grantees by establishing one competition for those applicants that meet one or more of the conditions in paragraph (b) of this section and a separate competition for applicants that meet the corresponding conditions in paragraph (c) of this section.

(b) As used in this section, ''new potential grantee'' means an applicant that meets one or more of the following conditions—

(1) The applicant has never received a grant or cooperative agreement, including through membership in a group application submitted in accordance with §§ 75.127 through 75.129 that received a grant or cooperative agreement, under the program from which it seeks funds;

(2) The applicant does not, as of the deadline date for submission of applications, have an active grant or cooperative agreement, including through membership in a group application submitted in accordance with §§ 75.127 through 75.129 that has an active grant or cooperative agreement, under the program from which it seeks funds;

(3) The applicant has not had an active discretionary grant or cooperative agreement under the program from which it seeks funds, including through membership in a group application submitted in accordance with §§ 75.127 through 75.129, within one of the following number of years before the deadline date for submission of applications under the program:

(i) 1 year;
(ii) 2 years;
(iii) 3 years;
(iv) 4 years;
(v) 5 years;
(vi) 6 years; or
(vii) 7 years;

(4) The applicant has not had an active discretionary grant or cooperative agreement from the Department, including through membership in a group application submitted in accordance with §§ 75.127 through 75.129, within one of the following number of years before the deadline date for submission of applications under the program from which it seeks funds:

(i) 1 year;
(ii) 2 years;
(iii) 3 years;
(iv) 4 years;
(v) 5 years;
(vi) 6 years; or
(vii) 7 years;

(5) The applicant has not had an active contract from the Department within one of the following number of years before the deadline date for submission of applications under the program for which it seeks funds:

(i) 1 year;
(ii) 2 years;
(iii) 3 years;
(iv) 4 years;

(v) 5 years;
(vi) 6 years; or
(vii) 7 years; or
(6) Any combination of paragraphs (b)(1) through (5) of this section.

(c) As used in this section, an ''application from a grantee that is not a new potential grantee'' means an applicant that meets one or more of the following conditions—

(1) The applicant has received a grant or cooperative agreement, including through membership in a group application submitted in accordance with §§ 75.127 through 75.129 that received a grant or cooperative agreement, under the program from which it seeks funds;

(2) The applicant has, as of the deadline date for submission of applications, an active grant or cooperative agreement, including through membership in a group application submitted in accordance with §§ 75.127 through 75.129 that has an active grant or cooperative agreement, under the program from which it seeks funds;

(3) The applicant has had an active discretionary grant or cooperative agreement under the program from which it seeks funds, including through membership in a group application submitted in accordance with §§ 75.127 through 75.129, within one of the following number of years before the deadline date for submission of applications under the program:
(i) 1 year;
(ii) 2 years;
(iii) 3 years;
(iv) 4 years;
(v) 5 years;
(vi) 6 years; or
(vii) 7 years;

(4) The applicant has had an active discretionary grant or cooperative agreement from the Department, including through membership in a group application submitted in accordance with §§ 75.127 through 75.129, within one of the following number of years before the deadline date for submission of applications under the program from which it seeks funds:
(i) 1 year;
(ii) 2 years;
(iii) 3 years;
(iv) 4 years;
(v) 5 years;
(vi) 6 years; or
(vii) 7 years;

(5) The applicant has had an active contract from the Department within one of the following number of years before the deadline date for submission of applications under the program from which it seeks funds:
(i) 1 year;
(ii) 2 years;
(iii) 3 years;
(iv) 4 years;
(v) 5 years;
(vi) 6 years; or
(vii) 7 years.

(e) For the purpose of this section, a grant, cooperative agreement, or contract is active until the end of the grant's, cooperative agreement's, or contract's project or funding period, including any extensions of those periods that extend the grantee's or contractor's authority to obligate funds.

■ 37. Revise § 75.226 to read as follows:

§ 75.226 What procedures does the Secretary use if the Secretary decides to give special consideration to an application supported by strong evidence, moderate evidence, or promising evidence, or an application that demonstrates a rationale?

If the Secretary determines that special consideration of applications supported by strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale is appropriate, the Secretary may establish a separate competition under the procedures in § 75.105(c)(3), or provide competitive preference under the procedures in § 75.105(c)(2), for applications that are supported by—
(a) Strong evidence;
(b) Moderate evidence;
(c) Promising evidence; or
(d) Evidence that demonstrates a rationale.

■ 38. Add § 75.227 before the undesignated center heading ''Procedures to Make a Grant'' to read as follows:

§ 75.227 What procedures does the Secretary use if the Secretary decides to give special consideration to rural applicants?

(a) If the Secretary determines that special consideration of rural applicants is appropriate, the Secretary may: provide competitive preference to applicants that meet one or more of the conditions in paragraph (b) of this section; or provide special consideration for rural applicants by establishing one competition for those applicants that meet one or more of the conditions in paragraph (b) of this section and a separate competition for applicants that meet the corresponding conditions in paragraph (c).

(b) As used in this section, ''rural applicant'' means an applicant that meets one or more of the following conditions:

(1) The applicant proposes to serve a local educational agency (LEA) that is eligible under the Small Rural School Achievement (SRSA) program or the Rural and Low-Income School (RLIS) program authorized under title V, part B of the Elementary and Secondary Education Act of 1965.

(2) The applicant proposes to serve a community that is served by one or more LEAs—
(i) With a locale code of 32, 33, 41, 42, or 43; or
(ii) With a locale code of 41, 42, or 43.

(3) The applicant proposes a project in which a majority of the schools served—
(i) Have a locale code of 32, 33, 41, 42, or 43; or
(ii) Have a locale code of 41, 42, or 43.

(4) The applicant is an institution of higher education with a rural campus setting, or the applicant proposes to serve a campus with a rural setting. Rural settings include one or more of the following: Town-Fringe, Town-Distant, Town-Remote, Rural Fringe, Rural-Distant, and Rural-Remote, as defined by the National Center for Education Statistics College Navigator search tool.

(c) As used in this section, a ''non-rural applicant'' means an applicant that meets one or more of the following conditions—

(1) The applicant does not propose to serve a local educational agency (LEA) that is eligible under the Small Rural School Achievement program or the Rural and Low-Income School program authorized under title V, part B of the Elementary and Secondary Education Act of 1965.

(2) The applicant does not propose to serve a community that is served by one or more LEAs—
(i) With a locale code of 32, 33, 41, 42, or 43; or
(ii) With a locale code of 41, 42, or 43.

(3) The applicant proposes a project in which a majority of the schools served—
(i) Have a locale code of 32, 33, 41, 42, or 43; or
(ii) Have a locale code of 41, 42, or 43.

(4) The applicant is not an institution of higher education with a rural campus setting, or the applicant proposes to serve a campus with a rural setting. Rural settings include one or more of the following: Town-Fringe, Town-Distant, Town-Remote, Rural Fringe, Rural-Distant, and Rural-Remote, as defined by the National Center for Education Statistics College Navigator search tool.

■ 39. Revise § 75.230 to read as follows:

§ 75.230 How the Department makes a grant.

(a) If the Secretary selects an application under § 75.217, § 75.220, or

§ 75.222, the Secretary follows the procedures in §§ 75.231 through 75.236 to set the amount and determine the conditions of a grant. Sections 75.235 through 75.236 also apply to grants under formula grant programs. (See § 75.200 for more information.)

§ 75.234 [Amended]

■ 40. Amend § 75.234 by:
■ a. In paragraph (a)(2), removing the word ''special'' and adding in its place the word ''specific''; and
■ b. Removing the parenthetical authority citation at the end of the section.

■ 41. Revise § 75.250 to read as follows:

§ 75.250 Maximum project period.

The Secretary may approve a project period of up to 60 months to perform the substantive work of a grant unless an applicable statute provides otherwise.

■ 42. Revise § 75.253 to read as follows:

§ 75.253 Continuation of a multiyear project after the first budget period.

(a) *Continuation award.* A grantee, in order to receive a continuation award from the Secretary for a budget period after the first budget period of an approved multiyear project, must—

(1) Either—

(i) Demonstrate that it has made substantial progress in achieving—

(A) The goals and objectives of the project; and

(B) The performance targets in the grantee's approved application, if the Secretary established performance measurement requirements for the grant in the application notice; or

(ii) Obtain the Secretary's approval for changes to the project that—

(A) Do not increase the amount of funds obligated to the project by the Secretary; and

(B) Enable the grantee to achieve the goals and objectives of the project and meet the performance targets of the project, if any, without changing the scope or objectives of the project;

(2) Submit all reports as required by § 75.118;

(3) Continue to meet all applicable eligibility requirements of the grant program;

(4) Maintain financial and administrative management systems that meet the requirements in 2 CFR 200.302 and 200.303; and

(5) Receive a determination from the Secretary that continuation of the project is in the best interest of the Federal Government.

(b) *Information considered in making a continuation award.* In determining whether the grantee has met the requirements described in paragraph (a) of this section, the Secretary may consider any relevant information regarding grantee performance. This includes considering reports required by § 75.118, performance measures established under § 75.110, financial information required by 2 CFR part 200, and any other relevant information.

(c) *Funding for continuation awards.* Subject to the criteria in paragraphs (a) and (b) of this section, in selecting applications for funding under a program, the Secretary gives priority to continuation awards over new grants.

(d) *Budget period.* If the Secretary makes a continuation award under this section—

(1) The Secretary makes the award under §§ 75.231 through 75.236; and

(2) The new budget period begins on the day after the previous budget period ends.

(e) *Amount of continuation award.* (1) Within the original project period of the grant and notwithstanding any requirements in 2 CFR part 200, a grantee may expend funds that have not been obligated at the end of a budget period for obligations in subsequent budget periods if—

(i) The obligation is for an allowable cost within the approved scope and objectives of the project; and

(ii) The obligation is not otherwise prohibited by applicable statutes, regulations, or the conditions of an award.

(2) The Secretary may—

(i) Require the grantee to submit a written statement describing how the funds made available under paragraph (e)(1) of this section will be used; and

(ii) Determine the amount of new funds that the Department will make available for the subsequent budget period after considering the statement the grantee provides under paragraph (e)(2)(i) of this section and any other information available to the Secretary about the use of funds under the grant.

(3) In determining the amount of new funds to make available to a grantee under this section, the Secretary considers whether the unobligated funds made available are needed to complete activities that were planned for completion in the prior budget period.

(4) A decision to reduce the amount of a continuation award under this paragraph (e) does not entitle a grantee to reconsideration under 2 CFR 200.342.

(f) *Decision not to make a continuation award.* The Secretary may decide not to make a continuation award if—

(1) A grantee fails to meet any of the requirements in paragraph (a) of this section; or

(2) A grantee fails to ensure that data submitted to the Department as a condition of the grant meet the definition of ''quality data'' in 34 CFR 77.1(c) and does not have a plan acceptable to the Secretary for addressing data-quality issues in the next budget period.

(g) *Request for reconsideration.* If the Secretary decides not to make a continuation award under this section, the Secretary will notify the grantee of that decision, the grounds on which it is based, and, consistent with 2 CFR 200.342, provide the grantee with an opportunity to request reconsideration of the decision.

(1) A request for reconsideration must—

(i) Be submitted in writing to the Department official identified in the notice denying the continuation award by the date specified in that notice; and

(ii) Set forth the grantee's basis for disagreeing with the Secretary's decision not to make a continuation award and include relevant supporting documentation.

(2) The Secretary will consider the request for reconsideration.

(h) *No-cost extension when a continuation award is not made.* If the Secretary decides not to make a continuation award under this section, the Secretary may authorize a no-cost extension of the last budget period of the grant in order to provide for the orderly closeout of the grant.

(i) *A decision to reduce or not to make a continuation award does not constitute withholding.* A decision by the Secretary to reduce the amount of a continuation award under paragraph (e) of this section or to not make a continuation award under paragraph (f) of this section does not constitute a withholding under section 455 of GEPA (20 U.S.C. 1234d).

■ 43. Add § 75.254 to read as follows:

§ 75.254 Data collection period.

(a) The Secretary may approve a data collection period for a grant for a period of up to 72 months after the end of the project period and provide funds for the data collection period for the purpose of collecting, analyzing, and reporting performance measurement data on the project.

(b) If the Secretary plans to approve a data collection period, the Secretary may inform applicants of the Secretary's intent to approve data collection periods in the application notice published for a competition or may decide to fund

data collection periods after grantees have started their project periods.

(c) If the Secretary informs applicants of the intent to approve data collection periods in the notice inviting applications, the Secretary may require applicants to include in the application a budget for, and description of, a data collection period for a period of up to 72 months, as specified in the notice inviting applications, after the end of the project period.

§ 75.260 [Amended]

■ 44. Amend § 75.260 by:

■ a. In paragraph (b), removing the words ''the authorizing statute for that program'' and adding in their place the words ''applicable statutes and regulations''; and

■ b. Removing the parenthetical authority citation at the end of the section.

■ 45. Revise § 75.261 to read as follows:

§ 75.261 Extension of a project period.

(a) *One-time extension of project period without prior approval.* A grantee may extend the project period of an award one time, for a period up to 12 months, without the prior approval of the Secretary, if—

(1) The grantee meets the requirements for extension in 2 CFR 200.308(e)(2); and

(2) The extension is not otherwise prohibited by statute, regulation, or the conditions of an award.

(b) *Extension of project period with prior approval.* At the conclusion of the project period extension authorized under paragraph (a) of this section, or in any case in which a project period extension is not authorized under paragraph (a) of this section, a grantee, with prior approval of the Secretary, may extend a project for an additional period if—

(1) The extension is not otherwise prohibited by statute, regulations, or the conditions of an award;

(2) The extension does not involve the obligation of additional Federal funds;

(3) The extension is to carry out the approved objectives and scope of the project; and

(4)(i) The Secretary determines that, due to special or unusual circumstances applicable to a class of grantees, the project periods for the grantees should be extended; or

(ii)(A) The Secretary determines that special or unusual circumstances would delay completion of the project beyond the end of the project period;

(B) The grantee requests an extension of the project period at least 45 calendar days before the end of the project period; and

(C) The grantee provides a written statement, before the end of the project period, of the reasons the extension is appropriate under paragraph (b)(4)(ii)(A) of this section and the period for which the project extension is requested.

(c) *Waiver.* The Secretary may waive the requirement in paragraph (b)(4)(ii) of this section if—

(1) The grantee could not reasonably have known of the need for the extension on or before the start of the 45-day period; or

(2) The failure to give notice on or before the start of the 45-day period was unavoidable.

§ 75.263 [Amended]

■ 46. Amend § 75.263 by:

■ a. Removing '', notwithstanding any requirement in 2 CFR part 200,'' from the introductory text;

■ b. In paragraph (a), removing the word ''ED'' and adding in its place the word ''Department''; and

■ c. Removing the parenthetical authority citation at the end of the section.

§ 75.264 [Amended]

■ 47. Remove the authority citation at the end of the section.

■ 48. Amend § 75.500 by revising paragraph (a) to read as follows:

§ 75.500 Federal statutes and regulations on nondiscrimination.

(a) Each grantee must comply with the following statutes and regulations:

TABLE 1 TO PARAGRAPH (a)

Subject	Statute	Regulations
Discrimination on the basis of race, color, or national origin ..	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).	34 CFR part 100.
Discrimination on the basis of disability	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).	34 CFR part 104.
Discrimination on the basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*).	34 CFR part 106.
Discrimination on the basis of age	Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*)	34 CFR part 110.

* * * * *

§ 75.519 [Amended]

■ 49. Amend § 75.519 by:

■ a. Removing the words ''its grantee'' and adding in their place the words ''its grant'';

■ b. Adding '', consistent with the cost principles described in 2 CFR part 200'' after the word ''funds''; and

■ c. Removing the parenthetical authority citation at the end of the section.

§ 75.531 [Amended]

■ 50. Amend § 75.531 by removing the word ''insure'' and adding in its place the word ''ensure''.

§ 75.533 [Amended]

■ 51. Amend § 75.533 by:

■ a. Removing the words ''authorizing statute or implementing regulations for the program'' and adding in their place the words ''applicable statutes and regulations''.

■ b. Removing the parenthetical authority citation at the end of the section.

§ 75.534 [Amended]

■ 52. Amend § 75.534 in paragraph (a) by removing the words ''the program statute'' and adding in their place the words ''applicable statutes and regulations''.

■ 53. Revise § 75.560 to read as follows:

§ 75.560 General indirect cost rates and cost allocation plans; exceptions.

(a) The differences between direct and indirect costs and the principles for determining the general indirect cost rate that a grantee may use for grants under most programs are specified in the cost principles for—

(1) All grantees, other than hospitals and commercial (for-profit) organizations, at 2 CFR part 200, subpart E;

(2) Hospitals, at 45 CFR part 75, appendix XI; and

(3) Commercial (for-profit) organizations, at 48 CFR part 31.

(b) Except as specified in paragraph (c) of this section, a grantee must have

obtained a current indirect cost rate agreement or approved cost allocation plan from its cognizant agency, to charge indirect costs to a grant. To obtain a negotiated indirect cost rate agreement or approved cost allocation plan, a grantee must submit an indirect cost rate proposal or cost allocation plan to its cognizant agency within 90 days after the date on which the Department issues the Grant Award Notification (GAN).

(c) A grantee that meets the requirements in 2 CFR 200.414(f) may elect to charge the *de minimis* rate of modified total direct costs (MTDC) specified in that provision, which may be used indefinitely. The *de minimis* rate may not be used on programs that have statutory or regulatory restrictions on the indirect cost rate. No documentation is required to justify the *de minimis* rate.

(1) If the grantee has established a threshold for equipment that is lower than the amount specified in the Uniform Guidance, the grantee must use that threshold to exclude equipment from the MTDC base.

(2) For purposes of the MTDC base and application of the *de minimis* rate, MTDC includes up to the amount specified in the definition of MTDC in the Uniform Guidance of each subaward, each year.

(d) If a grantee is required to, but does not, have a federally recognized indirect cost rate agreement or approved cost allocation plan, the Secretary may permit the grantee to charge its grant for indirect costs at a temporary rate of 10 percent of budgeted direct salaries and wages.

(e)(1) If a grantee fails to submit an indirect cost rate proposal or cost allocation plan to its cognizant agency within the required 90 days, the grantee may not charge indirect costs to its grant from the end of the 90-day period until it obtains a federally recognized indirect cost rate agreement applicable to the grant.

(2) If the Secretary determines that exceptional circumstances warrant continuation of a temporary indirect cost rate, the Secretary may authorize the grantee to continue charging indirect costs to its grant at the temporary rate specified in paragraph (d) of this section even though the grantee has not submitted its indirect cost rate proposal within the 90-day period.

(3) Once a grantee obtains a federally recognized indirect cost rate that is applicable to the affected grant, the grantee may use that indirect cost rate to claim indirect cost reimbursement for expenditures made on or after the date on which the grantee submitted its indirect cost proposal to its cognizant agency or the start of the project period, whichever is later. However, this authority is subject to the following limitations:

(i) The total amount of funds recovered by the grantee under the federally recognized indirect cost rate is reduced by the amount of indirect costs previously recovered under the temporary indirect cost rate specified in paragraph (d) of this section.

(ii) The grantee must obtain prior approval from the Secretary to shift direct costs to indirect costs in order to recover indirect costs at a higher negotiated indirect cost rate.

(iii) The grantee may not request additional funds to recover indirect costs that it cannot recover by shifting direct costs to indirect costs.

(f) The Secretary accepts a current indirect cost rate and cost allocation plan approved by a grantee's cognizant agency but may establish a restricted indirect cost rate or cost allocation plan compliant with 34 CFR 76.564 through 76.569 to satisfy the statutory requirements of certain programs administered by the Department.

■ 54. Amend § 75.561 by:

■ a. Revising the section heading and paragraph (a); and

■ b. Removing the second sentence of paragraph (b).

The revisions read as follows:

§ 75.561 Approval of indirect cost rates and cost allocation plans.

(a) If the Department of Education is the cognizant agency, the Secretary approves an indirect cost rate or cost allocation plan for a grantee that is eligible and does not elect a *de minimis* rate, and is not a local educational agency. For the purposes of this section, the term ''local educational agency'' does not include a State agency.

* * * * *

■ 55. Revise § 75.562 to read as follows:

§ 75.562 Indirect cost rates for educational training projects; exceptions.

(a) Educational training grants provide funds for training or other educational services. Examples of the work supported by training grants are summer institutes, training programs for selected participants, the introduction of new or expanded courses, and similar instructional undertakings that are separately budgeted and accounted for by the sponsoring institution. These grants do not usually support activities involving research, development, and dissemination of new educational materials and methods. Training grants largely implement previously developed materials and methods and require no significant adaptation of techniques or instructional services to fit different circumstances.

(b) The Secretary uses the definition in paragraph (a) of this section to determine which grants are educational training grants.

(c)(1) Indirect cost reimbursement on a training grant is limited to the lesser of the recipient's approved indirect cost rate, or 8 percent of the modified total direct cost (MTDC) base. MTDC is defined in 2 CFR 200.1.

(2) If the grantee does not have a federally recognized indirect cost rate agreement on the date on which the training grant is awarded, the grantee may elect to use the temporary indirect cost rate authorized under § 75.560(d)(3) or a rate of 8 percent of the MTDC base. The *de minimis* rate may not be used on educational training programs.

(i) If the grantee has established a threshold for equipment that is lower than the amount specified in the Uniform Guidance, the grantee must use that threshold to exclude equipment from the MTDC base.

(ii) For purposes of the MTDC base and application of the 8 percent rate, MTDC includes up to the amount specified in the definition of MTDC in the Uniform Guidance of each subaward, each year.

(3) The 8 percent indirect cost rate reimbursement limit specified in paragraph (c)(1) of this section also applies when subrecipients issue subawards that fund training, as determined by the Secretary under paragraph (b) of this section.

(4) The 8 percent limit does not apply to agencies of Indian Tribal governments, local governments, and States as defined in 2 CFR 200.1.

(5) Indirect costs in excess of the 8 percent limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

(d) A grantee using the training rate of 8 percent is required to maintain documentation to justify the 8 percent rate.

■ 56. Revise § 75.563 to read as follows:

§ 75.563 Restricted indirect cost rate or cost allocation plans—programs covered.

If a grantee or subgrantee decides to charge indirect costs to a program that is subject to a statutory prohibition on using Federal funds to supplant non-Federal funds, the grantee must—

(a) Use a negotiated restricted indirect cost rate or restricted cost allocation plan compliant with 34 CFR 76.564 through 76.569; or

(b) Elect to use an indirect cost rate of 8 percent of the modified total direct

costs (MTDC) base if the grantee or subgrantee does not have a negotiated restricted indirect cost rate. MTDC is defined in 2 CFR 200.1. If the Secretary determines that the grantee or subgrantee would have a lower rate under 34 CFR 76.564 through 76.569, the lower rate must be used on the affected program.

(c) If the grantee has established a threshold for equipment that is lower than the amount specified in the Uniform Guidance, the grantee must use that threshold to exclude equipment from the MTDC base.

(d) For purposes of the MTDC base and application of the 8 percent rate, MTDC includes up to the amount specified in the definition of MTDC in the Uniform Guidance of each subaward, each year.

■ 57. Amend § 75.564 by:
■ a. Revising paragraph (b);
■ b. Adding the words ''and other applicable restrictions'' at the end of paragraph (d);
■ c. Removing the word ''for'' after the phrase ''to the direct cost base'' and adding in its place the word ''of'' in paragraph (e)(1);
■ d. Adding the words ''and program requirements'' at the end of paragraph (e)(1);
■ e. Removing the hyphen between ''sub'' and ''awards'' in paragraph (e)(2); and
■ f. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 75.564 Reimbursement of indirect costs.

* * * * *

(b) The application of the negotiated indirect cost rate (determination of the direct cost base) or cost allocation plan (charging methodology) must be in accordance with the agreement/plan approved by the grantee's cognizant agency.

* * * * *

§ 75.580 [Amended]

■ 58. Amend § 75.580 by removing the parenthetical authority citation.

■ 59. Amend § 75.590 by:
■ a. Adding paragraph (c); and
■ b. Removing the parenthetical authority citation at the end of the section.

The addition reads as follows:

§ 75.590 Grantee evaluations and reports.

* * * * *

(c) An application notice for a competition may require each grantee under that competition to do one or more of the following:

(1) Conduct an independent evaluation;

(2) Make public the final report, including results of any required independent evaluation;

(3) Ensure that the data from the independent evaluation are made available to third-party researchers consistent with the requirements in 34 CFR part 97, Protection of Human Subjects, and other applicable laws;

(4) Submit the final evaluation to the Education Resources Information Center (ERIC), which is administered by the Institute of Education Sciences; or

(5) Submit the final performance report under the grant to ERIC.

■ 60. Revise § 75.591 to read as follows:

§ 75.591 Federal evaluation; cooperation by a grantee.

A grantee must cooperate in any evaluation of the program by the Secretary. If requested by the Secretary, a grantee must, among other types of activities—

(a) Cooperate with the collection of information, including from all or a subset of subgrantees and potential project beneficiaries, including both participants and non-participants, through surveys, observations, administrative records, or other data collection and analysis methods. This information collection may include program characteristics, including uses of program funds, as well as beneficiary characteristics, participation, and outcomes; and

(b) Pilot its Department-funded activities with a subset of subgrantees, potential project beneficiaries, or eligible participants and allow the Department or its agent to randomly select the subset for the purpose of providing a basis for an experimental evaluation that could meet What Works Clearinghouse standards, with or without reservations.

■ 61. Revise § 75.600 to read as follows:

§ 75.600 Applicability of using grant funds for construction or real property.

(a) As used in this section, the terms ''construction'' and ''minor remodeling'' have the meanings given those terms in 34 CFR 77.1(c).

(b) Except as provided in paragraph (c) of this section, §§ 75.600 through 75.618 apply to—

(1) An applicant that requests funds for construction or real property acquisition; and

(2) A grantee whose grant includes funds for construction or real property acquisition.

(c) Sections 75.600 through 75.618 do not apply to grantees in—

(1) Programs prohibited from using funds for construction or real property acquisition under § 75.533; and

(2) Projects determined by the Secretary to be minor remodeling under 34 CFR 77.1(c).

■ 62. Revise § 75.601 to read as follows:

§ 75.601 Approval of the construction.

(a) The Secretary approves a direct grantee construction project—

(1) When the initial grant application is approved; or

(2) After the grant has been awarded.

(b) A grantee may not advertise or place the construction project on the market for bidding until after the Secretary has approved the project.

■ 63. Revise § 75.602 to read as follows:

§ 75.602 Planning the construction.

(a) In planning the construction project, a grantee—

(1) Must ensure that the design is functional, economical, and not elaborate in design or extravagant in the use of materials compared with facilities of a similar type constructed in the State or other applicable geographic area;

(2) May consider excellence of architecture and design and inclusion of works of art. A grantee must not spend more than 1 percent of the cost of the project on works of art; and

(3) May make reasonable provision, consistent with the other uses to be made of the construction, for areas that are adaptable for artistic and other cultural activities.

(b) In developing the proposed budget for the construction project, a grantee—

(1) Must ensure that sufficient funds are available to meet any non-Federal share of the cost of the construction project;

(2) May include sufficient funds for commissioning of energy, HVAC, and water systems and to train personnel in the proper operation of such building systems;

(3) For new construction and major rehabilitation projects, may consider life-cycle cost analysis for major design decisions to the extent possible;

(4) May budget for reasonable and predictable contingency costs consistent with 2 CFR 200.433; and

(5) May budget for school and community education about the construction project including its energy, environmental, and health features and benefits.

(c) Prior to approving a construction project under § 75.601, the Secretary considers a grantee's compliance with the following requirements, as applicable:

(1) Title to site (§ 75.610).

(2) Environmental impact assessment (§ 75.611).

(3) Avoidance of flood hazards (§ 75.612).

(4) Compliance with the Coastal Barrier Resources Act (§ 75.613).

(5) Preservation of historic sites (§ 75.614).

(6) Build America, Buy America Act (§ 75.615).

(7) Energy conservation (§ 75.616).

(8) Access for individuals with disabilities (§ 75.617).

(9) Safety and health standards (§ 75.618).

■ 64. Revise § 75.603 to read as follows:

§ 75.603 Beginning the construction.

(a) A grantee must begin work on the construction project within a reasonable time after the Secretary has approved the project under § 75.601.

(b) A grantee must follow all applicable procurement standards in 2 CFR part 200, subpart D, when advertising or placing the project on the market for bidding.

■ 65. Revise § 75.604 to read as follows:

§ 75.604 During the construction.

(a) A grantee must maintain competent architectural engineering supervision and inspection at the construction site to ensure that the work conforms to the approved final working specifications.

(b) A grantee must complete the construction in accordance with the approved final working specifications unless a revision is approved.

(c) If a revision to the timeline, budget, or approved final working specifications is required, the grantee must request prior written approval consistent with 2 CFR 200.308(h).

(d) A grantee must comply with Federal laws regarding prevailing wages on construction and minor remodeling projects assisted with Department funding, including, as applicable, subchapter IV of chapter 31 of title 40, United States Code (commonly known as the ''Davis-Bacon Act''; as applied through section 439 of GEPA; 20 U.S.C. 1232b) and any tribally determined prevailing wages.

(e) A grantee must submit periodic performance reports regarding the construction project containing information specified by the Secretary consistent with 2 CFR 200.329(d).

■ 66. Revise § 75.605 to read as follows:

§ 75.605 After the construction.

(a) A grantee must ensure that sufficient funds will be available for effective operation and maintenance of the facilities after the construction is complete.

(b) A grantee must operate and maintain the facilities in accordance with applicable Federal, State, and local requirements.

(c) A grantee must maintain all financial records, supporting documents, statistical records, and other non-Federal entity records pertinent to the construction project consistent with 2 CFR 200.334.

■ 67. Revise § 75.606 to read as follows:

§ 75.606 Real property requirements.

(a) The Secretary approves a direct grantee real property project—

(1) When the initial grant application is approved;

(2) After the grant has been awarded; or

(3) With the approval of a construction project under § 75.601.

(b) A grantee using any grant funds for real property acquisition must—

(1) Comply with the Real Property Standards of the Uniform Guidance (2 CFR 200.310 through 200.316);

(2) Not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without written permission and instructions from the Secretary;

(3) In accordance with agency directives, record the Federal interest in the title of the real property in the official real property records for the jurisdiction in which the facility is located and include a covenant in the title of the real property to ensure nondiscrimination; and

(4) Report at least annually on the status of real property in which the Federal Government retains an interest consistent with 2 CFR 200.330.

(c) A grantee is subject to the regulations on relocation assistance and real property acquisition in 34 CFR part 15 and 49 CFR part 24, as applicable.

§ 75.607 through 75.609 [Removed and Reserved]

■ 68. Remove and reserve §§ 75.607 through 75.609.

■ 69. Revise § 75.610 to read as follows:

§ 75.610 Title to site.

A grantee must have or obtain a full title or other interest in the site (such as a long-term lease), including right of access, that is sufficient to ensure the grantee's undisturbed use and possession of the facilities for at least 25 years after completion of the project or for the useful life of the construction, whichever is longer.

■ 70. Revise § 75.611 to read as follows:

§ 75.611 Environmental impact assessment.

(a) When a grantee's construction or real property acquisition project is considered a ''Major Federal Action,'' as defined in 40 CFR 1508.1(q), the grantee must include an assessment of the impact of the proposed construction on the quality of the environment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(2)(C)) and Executive Order 11514 (35 FR 4247).

(b) If a grantee's construction or real property project is not considered a ''Major Federal Action'' under NEPA, a NEPA environmental impact assessment is not required; however—

(1) An environmental impact assessment may be required under State or local requirements; and

(2) Grantees are encouraged to perform some type of environmental assessment for projects that involve breaking ground, such as projects to expand the size of an existing building or replace an outdated building.

■ 71. Revise § 75.612 to read as follows:

§ 75.612 Avoidance of flood hazards.

In planning the construction or real property project, a grantee must, consistent with Executive Order (E.O.) 11988 of May 24, 1977, E.O. 13690 of January 30, 2015, and E.O. 14030 of May 20, 2021—

(a) Evaluate flood hazards in connection with the construction;

(b) As far as practicable, avoid uneconomic, hazardous, or unnecessary use of flood plains in connection with the construction;

(c) Mitigate flood hazards through design such as elevating systems and first floor elevations above flood level plus freeboard; and

(d) Summarize remaining flood risks in a memorandum.

■ 72. Revise § 75.613 to read as follows:

§ 75.613 Compliance with the Coastal Barrier Resources Act.

A grantee may not use, within the Coastal Barrier Resources System, funds made available under a program administered by the Secretary for any purpose prohibited by the Coastal Barrier Resources Act (16 U.S.C. 3501–3510).

■ 73. Revise § 75.614 to read as follows:

§ 75.614 Preservation of historic sites.

(a) A grantee must describe the relationship of the proposed construction to, and probable effect on, any district, site, building, structure, or object that is—

(1) Included in the National Register of Historic Places; or

(2) Eligible under criteria established by the Secretary of the Interior for inclusion in the National Register of Historic Places.

(b) In deciding whether to approve a construction project, the Secretary considers—

(1) The information provided by the grantee under paragraph (a) of this section; and

(2) Any comments received by the Advisory Council on Historic Preservation (see 36 CFR part 800).

■ 74. Revise § 75.615 to read as follows:

§ 75.615 Build America, Buy America Act.

A grantee must comply with the requirements of the Build America, Buy America Act, Pub. L. 117–58, § 70901 through 70927 and implementing regulations, as applicable.

■ 75. Revise § 76.616 to read as follows:

§ 75.616 Energy conservation.

(a) To the extent practicable, a grantee must design and construct facilities to maximize the efficient use of energy. A grantee that is constructing a new school building or conducting a major rehabilitation of a school building may evaluate life-cycle costs and benefits of highly efficient, all-electric systems or a net zero energy project in the early design phase.

(b) A grantee must comply with ASHRAE 90.1–2022 in their construction project.

(c) ANSI/ASHRAE/IES Standard 90.1–2022 (I–P), Energy Standard for Sites and Buildings Except Low-Rise Residential Buildings (I–P Edition), 2022 (''ASHRAE Standard 90.1–2022''), is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. This material is available for inspection at the Department of Education (the Department) and at the National Archives and Records Administration (NARA). Contact the Department at: Department of Education, 400 Maryland Avenue SW, room 4C212, Washington, DC, 20202–8472; phone: (202) 245–6776; email: *EDGAR@ed.gov.* For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.* The material may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) at American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 180 Technology Parkway, Peachtree Corners, GA 30092; *www.ashrae.org;* 404–636–8400.

■ 76. Revise § 75.617 to read as follows:

§ 75.617 Access for individuals with disabilities.

A grantee must comply with the following Federal regulations on access by individuals with disabilities that apply to the construction of facilities:

(a) For residential facilities: 24 CFR part 40.

(b) For non-residential facilities: 41 CFR 102–76.60 to 102–76.95.

§ 75.618 [Redesignated as § 75.619]

■ 77. Redesignate § 75.618 as § 75.619.

■ 78. Add new § 75.618 to read as follows:

§ 75.618 Safety and health standards.

In planning for and designing a construction project,

(a) A grantee must comply with the following:

(1) The standards under the Occupational Safety and Health Act of 1970 (See 29 CFR part 1910).

(2) State and local codes, to the extent that they are more stringent.

(b) A grantee may use additional standards and best practices to support health and wellbeing of students and staff.

■ 79. Revise § 75.620 to read as follows:

§ 75.620 General conditions on publication.

(a) *Content of materials.* Subject to any specific requirements that apply to its grant, a grantee may decide the format and content of project materials that it publishes or arranges to have published.

(b) *Required statement.* The grantee must ensure that any publication that contains project materials also contains the following statement: The contents of this [insert type of publication; such as book, report, film, website, and web page] were developed under a grant from the U.S. Department of Education (Department). The Department does not mandate or prescribe practices, models, or other activities described or discussed in this document. The contents of this [insert type of publication] may contain examples of, adaptations of, and links to resources created and maintained by another public or private organization. The Department does not control or guarantee the accuracy, relevance, timeliness, or completeness of this outside information. The content of this [insert type of publication] does not necessarily represent the policy of the Department. This publication is not intended to represent the views or policy of, or be an endorsement of any views expressed or materials provided by, any Federal agency.

■ 80. Revise § 75.622 to read as follows:

§ 75.622 Definition of ''project materials.''

As used in §§ 75.620 through 75.621, ''project materials'' means a copyrightable work developed with funds from a grant of the Department. (See 2 CFR 200.307 and 200.315.)

■ 81. Add § 75.623 to read as follows:

§ 75.623 Public availability of grant-supported research publications.

(a) Grantees must make final peer-reviewed scholarly publications resulting from research supported by Department grants available to the Education Resources Information Center (ERIC), which is administered by the Institute of Education Sciences, upon acceptance for publication.

(b) A final, peer-reviewed scholarly publication is the final version accepted for publication and includes all edits made as part of the peer review process, as well as all graphics and supplemental materials that are associated with the article.

(c) The Department will make the final, peer-reviewed scholarly publication available to the public through ERIC at the same time as the publication becomes available on the publisher's website.

(d) Grantees are responsible for ensuring that any publishing or copyright agreements concerning submitted articles fully comply with this section.

(e) Grantees must make scientific data that inform the findings in a peer-reviewed scholarly publication publicly available, consistent with requirements in 34 CFR part 97, Protection of Human Subjects, and other applicable laws.

■ 82. Remove the undesignated center heading ''Inventions and Patents'' preceding § 75.626.

■ 83. Amend § 75.626 by:

■ a. Revising the section heading; and

■ b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 75.626 Show Federal support.

* * * * *

■ 84. Revise § 75.650 to read as follows:

§ 75.650 Participation of students enrolled in private schools.

If applicable statutes and regulations provide for participation of students enrolled in private schools and, as applicable, their teachers or other educational personnel, and their families, the grantee must provide, as applicable, services in accordance with §§ 76.650 through 76.662.

§ 75.682 [Amended]

■ 85. Amend § 75.682 by:

■ a. Removing the word ''shall'' and adding in its place the word ''must'';
■ b. Removing the words ''of 1970'' after the words ''Animal Welfare Act''; and
■ c. Removing the parenthetical authority citation at the end of the section.

■ 86. Revise § 75.700 to read as follows:

§ 75.700 Compliance with the U.S. Constitution, statutes, regulations, stated institutional policies, and applications.

A grantee must comply with § 75.500, applicable statutes, regulations, Executive orders, stated institutional policies, and applications, and must use Federal funds in accordance with the U.S. Constitution and those statutes, regulations, Executive orders, stated institutional policies, and applications.

§ 75.702 [Amended]

■ 87. Amend § 75.702 by removing the word ''insure'' and adding in its place the word ''ensure''.

■ 88. Amend § 75.708 by:
■ a. Revising paragraph (b) introductory text;
■ b. In paragraph (d)(2), removing the words ''Federal statute and executive orders and their implementing regulations'' and adding in their place the words ''applicable law'';
■ c. In paragraph (d)(3), removing the word ''anti-discrimination'' and adding in its place the word ''nondiscrimination'';
■ d. Revising paragraph (e); and
■ e. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 75.708 Subgrants.

* * * * *

(b) The Secretary may, through an announcement in the **Federal Register** or other reasonable means of notice, authorize subgrants when necessary to meet the purposes of a program. In this announcement, the Secretary will—

* * * * *

(e) Grantees that are not allowed to make subgrants under paragraph (b) of this section are authorized to contract, as needed, for supplies, equipment, and other services, in accordance with 2 CFR part 200, subpart D (2 CFR 200.317 through 200.326).

■ 89. Amend § 75.720 by:
■ a. In paragraph (a)(1), remove the citation ''2 CFR 200.327'' and adding in its place the citation ''2 CFR 200.328'';
■ b. In paragraph (a)(2), removing the citation ''2 CFR 200.328'' and adding in its place the citation ''2 CFR 200.329'';
■ c. Adding paragraph (d); and
■ d. Removing the parenthetical authority citation at the end of the section.

The addition reads as follows:

§ 75.720 Financial and performance reports.

* * * * *

(d) Upon request of the Secretary, a grantee must, at the time of submission to the Secretary, post any performance and financial reports required by this section on a public-facing website maintained by the grantee, after redacting any privacy or confidential business information.

■ 90. Amend § 75.732 by:
■ a. Redesignating paragraph (b)(2) as paragraph (b)(3) and adding the word ''project'' after the words ''Revise those''.
■ b. Adding a new paragraph (b)(2).

The addition reads as follows:

§ 75.732 Records related to performance.

* * * * *

(b) * * *

(2) Inform periodic review and continuous improvement of the project plans; and

* * * * *

■ 91. Amend § 75.740 by:
■ a. In paragraph (a), revising the parenthetical sentence at the end;
■ b. In paragraph (b), adding ''; 20 U.S.C. 1232h, commonly known as the ''Protection of Pupil Rights Amendment'' or ''PPRA''; and the Common Rule for the protection of Human Subjects and its implementing regulations at 34 CFR part 97, as applicable'' after the words ''GEPA and its implementing regulations at 34 CFR part 98''; and
■ c. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 75.740 Protection of and access to student records; student rights in research, experimental programs, and testing.

(a) * * * (Section 444 of GEPA (20 U.S.C. 1232g) is commonly referred to as the ''Family Educational Rights and Privacy Act of 1974'' or ''FERPA''.)

* * * * *

§ 75.900 [Amended]

■ 92. Amend § 75.900 by removing ''ED'' in paragraphs (a) and (b) and adding in its place the words ''the Department''.

§ 75.901 [Amended]

■ 93. Amend § 75.901 by:
■ a. In the introductory text, removing the words ''that are not subject to other procedures''; and
■ b. Removing the parenthetical authority citation from the end of the section.

PART 76—STATE–ADMINISTERED FORMULA GRANT PROGRAMS

■ 94. The authority citation for part 76 is revised to read as follows:

Authority: 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

Section 76.101 also issued under 20 U.S.C. 1221e–3, 3474, and 7844(b).

Section 76.127 also issued under 48 U.S.C. 1469a.

Section 76.128 also issued under 48 U.S.C. 1469a.

Section 76.129 also issued under 48 U.S.C. 1469a.

Section 76.130 also issued under 48 U.S.C. 1469a.

Section 76.131 also issued under 48 U.S.C. 1469a.

Section 76.132 also issued under 48 U.S.C. 1469a.

Section 76.134 also issued under 48 U.S.C. 1469a.

Section 76.136 also issued under 48 U.S.C. 1469a.

Section 76.140 also issued under 20 U.S.C. 1221e–3, 1231g(a), and 3474.

Section 76.301 also issued under 20 U.S.C. 1221e–3, 3474, and 7846(b).

Section 76.401 also issued under 20 U.S.C. 1221e–3, 1231b–2, and 3474.

Section 76.709 also issued under 20 U.S.C. 1221e–3, 1225(b), and 3474.

Section 76.710 also issued under 20 U.S.C. 1221e–3, 1225(b), and 3474.

Section 76.720 also issued under 20 U.S.C. 1221e–3, 1231a, and 3474.

Section 76.740 also issued under 20 U.S.C. 1221e–3, 1232g, 1232h, and 3474.

Section 76.783 also issued under 20 U.S.C. 1231b–2.

Section 76.785 also issued under 20 U.S.C. 7221e.

Section 76.786 also issued under 20 U.S.C. 7221e

Section 76.787 also issued under 20 U.S.C. 7221e.

Section 76.788 also issued under 20 U.S.C. 7221e.

Section 76.901 also issued under 20 U.S.C. 1234.

■ 95. The part heading for part 76 is revised to read as set forth above.

■ 96. Revise § 76.1 to read as follows:

§ 76.1 Programs to which this part applies.

(a) The regulations in this part apply to each State-administered formula grant program of the Department.

(b) If a State-administered formula grant program does not have implementing regulations, the Secretary implements the program under the applicable statutes and, to the extent consistent with the authorizing statute, under the GEPA and the regulations in this part. For the purposes of this part, the term State-administered formula grant program means a program whose applicable statutes or implementing regulations provide a formula for allocating program funds among eligible States.

§ 76.2 [Amended]

■ 97. Amend § 76.2 by removing the parenthetical authority citation at the end of the section.

■ 98. Revise § 76.50 to read as follows:

§ 76.50 Basic requirements for subgrants.

(a) Under a program covered by this part, the Secretary makes a grant—

(1) To the State agency designated by applicable statutes and regulations for the program; or

(2) To the State agency designated by the State in accordance with applicable statutes and regulations.

(b) Unless prohibited by applicable statutes or regulations or by the terms and conditions of the grant award, a State may use State-administered formula grant funds—

(1) Directly;

(2) To make subgrants to eligible applicants, as determined by applicable statutes or regulations, or if applicable statutes and regulations do not address eligible subgrantees, as determined by the State; or

(3) To authorize a subgrantee to make subgrants.

(c) Grantees are responsible for monitoring subgrantees consistent with 2 CFR 200.332.

(d) Grantees, in cases where subgrants are prohibited by applicable statutes or regulations or the terms and conditions of a grant award, are authorized to contract, as needed, for supplies, equipment, and other services, in accordance with 2 CFR part 200, subpart D (2 CFR 200.317 through 200.326).

(e) No subgrant that a State chooses to make in accordance with paragraph (b) may change the amount of Federal funds for which an entity is eligible through a formula in the applicable Federal statute or regulation.

§ 76.51 [Amended]

■ 99. Amend § 76.51 by:

■ a. In the introductory text, removing the words ''a program statute authorizes'' and adding in their place ''applicable statutes and regulations authorize''; and

■ b. Removing the parenthetical citation authority at the end of the section.

§ 76.52 [Amended]

■ 100. Amend § 76.52 by removing the words ''State-Administered Formula Grant'' and adding in their place ''State-administered formula grant'' in paragraphs (a)(3) and (4), (b), (c)(1), and (d)(1) and (2).

§ 76.100 [Amended]

■ 101. Amend § 76.100 by removing the words ''the authorizing statute and implementing regulations'' and adding in their place the words ''applicable statutes and regulations''.

■ 102. Revise § 76.101 to read as follows:

§ 76.101 State plans in general.

(a) Except as provided in paragraph (b) of this section, a State that makes subgrants to local educational agencies under a program subject to this part must have on file with the Secretary a State plan that meets the requirements of section 441 of GEPA (20 U.S.C. 1232d), which may include information about how the State intends use continuous improvement strategies in its program implementation based on periodic review of research, data, community input, and other feedback.

(b) The requirements of section 441 of GEPA do not apply to a State plan submitted for a program under the Elementary and Secondary Education Act of 1965.

■ 103. Revise § 76.102 to read as follows:

§ 76.102 Definition of ''State plan'' for this part.

As used in this part, *State plan* means any document that applicable statutes and regulations for a State-administered formula grant program require a State to submit in order to receive funds for the program. To the extent that any provision of this part conflicts with program-specific implementing regulations related to the plan, the program-specific implementing regulations govern.

■ 104. Revise § 76.103 to read as follows:

§ 76.103 Multiyear State plans.

Unless otherwise specified by statute, regulations, or the Secretary, each State plan is effective for a period of more than one fiscal year, to be determined by the Secretary or by regulations.

§ 76.125 [Amended]

■ 105. Amend § 76.125 by:

■ a. In paragraph (b), removing ''the Trust Territory of the Pacific Islands,'';

■ b. In paragraph (c), adding '', consistent with applicable law'' after the word ''Department''; and

■ c. Removing the parenthetical authority citation at the end of the section.

§ 76.127 [Amended]

■ 106. Amend § 76.127 by:

■ a. In the introductory text, removing the words ''of the programs listed in § 76.125(c)'' and adding in their place the words ''State-administered formula grant programs''; and

■ b. Removing the parenthetical authority citation at the end of the section.

■ 107. Amend § 76.128 by:

■ a. Removing the words ''of the programs listed in § 76.125(c)'' and adding in their place the words ''State-administered formula grant programs'';

■ b. Revising the example at the end of the section; and

■ c. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 76.128 What is a consolidated grant?

* * * * *

Example 1 to § 76.128. Assume the Virgin Islands applies for a consolidated grant that includes funds under the Carl D. Perkins Career and Technical Education Act of 2006 and title I, part A; title II, part A; and title IV, part A of the Elementary and Secondary Education Act of 1965. If the Virgin Islands' allocation under the formula for each of these four programs is $150,000, the total consolidated grant to the Virgin Islands would be $600,000.

■ 108. Amend § 76.129 by:

■ a. Revising the example after paragraph (a) and the example after paragraph (b).

■ b. Removing the parenthetical authority citation at the end of the section.

The revisions read as follows:

§ 76.129 How does a consolidated grant work?

(a) * * *

Example 1 to paragraph (a). Assume that Guam receives, under the consolidated grant, funds from Carl D. Perkins Career and Technical Education Act of 2006, Title I, part A of the ESEA, and Title IV, part A of the ESEA. The sum of the allocations under these programs is $600,000. Guam may choose to allocate this $600,000 among one, two, or all three of the programs.

(b) * * *

Example 2 to paragraph (b). Assume that American Samoa uses part of the funds under a consolidated grant to carry out programs and activities under Title IV, part A of the ESEA. American Samoa need not submit to the Secretary a State plan that addresses the program's application requirement that the State educational agency describe how it will use funds for State-level activities. However, in carrying out the program, American Samoa must use the required amount of funds for State-level activities under the program.

§ 76.130 [Amended]

■ 109. Amend § 76.130 by:

■ a. Removing in paragraph (d) the words ''statute and regulations for that program'' and adding in their place the words ''statutes and regulations that apply to that program''; and
■ b. Removing the parenthetical authority citation at the end of the section.

§ 76.131 [Amended]

■ 110. Amend § 76.131 by:
■ a. In paragraph (a), removing the words ''programs listed in § 76.125(c)'' and adding in their place the words ''State-administered formula grant programs'';
■ b. In paragraph (b), removing the words ''the authorizing statutes and regulations'' and adding in their place the words ''applicable statutes and regulations'';
■ c. In paragraph (c)(1), removing the words ''programs in § 76.125(c)'' and adding in their place the words ''State-administered formula grant programs'';
■ d. In paragraph (c)(2), removing the words ''program or programs in § 76.125(c)'' and adding in their place the words ''State-administered formula grant programs''; and
■ e. Removing the parenthetical authority citation at the end of the section.

§ 76.132 [Amended]

■ 111. Amend § 76.132 by:
■ a. In paragraphs (a)(2), removing the word ''authorizing'' and adding in its place the word ''applicable'';
■ b. In paragraph (a)(4), removing the word ''assure'' and adding in its place the word ''ensure'';
■ c. In paragraph (a)(5), removing the phrase ''2 CFR 200.327 and 200.328'' and adding in its place ''2 CFR 200.328 and 200.329'';
■ d. In paragraph (a)(9), removing the word ''authorizing'' and adding in its place the word ''applicable''; and
■ e. Removing the parenthetical authority citation at the end of the section.

■ 112. Amend § 76.134 by:
■ a. Revising paragraph (a);
■ b. In paragraph (b), removing the words ''applicable program statutes'' and adding in their place the words ''applicable statutes''; and
■ c. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 76.134 What is the relationship between consolidated and non-consolidated grants?

(a) An Insular Area may request that any State-administered formula grant programs be included in its consolidated grant and may apply separately for assistance under any other of those programs for which it is eligible.

* * * * *

§ 76.136 [Amended]

■ 113. Amend § 76.136 by:
■ a. Removing the words ''programs described in § 76.125(c)'' and adding in their place the words ''State-administered formula grant programs''; and
■ b. Removing the parenthetical authority citation at the end of the section.

■ 114. Revise § 76.140 to read as follows:

§ 76.140 Amendments to a State plan.

(a) If the Secretary determines that an amendment to a State plan is essential during the effective period of the plan, the State must make the amendment.

(b) A State must also amend a State plan if there is a significant and relevant change in the information or the assurances in the plan.

(c) If a State amends a State plan, to the extent consistent with applicable law, the State must use the same procedures as those it must use to prepare and submit a State plan, unless the Secretary prescribes different procedures for submitting amendments based on the characteristics and requirements of a particular State-administered formula grant program.

§§ 76.141 and 76.142 [Removed and Reserved]

■ 115. Remove and reserve §§ 76.141 and 76.142.

§ 76.260 [Amended]

■ 116. Amend § 76.260 by:
■ a. In the section heading, removing the words ''program statute'' and adding in their place the words ''applicable statutes''.
■ b. Removing the words ''the authorizing statute'' wherever they appear and adding in their place the words ''applicable statutes''.
■ 117. Revise § 76.301 to read as follows:

§ 76.301 Local educational agency application in general.

(a) A local educational agency (LEA) that applies for a subgrant under a program subject to this part must have on file with the State an application that meets the requirements of section 442 of GEPA (20 U.S.C. 1232e).

(b) The requirements of section 442 of GEPA do not apply to an LEA's application for a program under the ESEA.

§ 76.400 [Amended]

■ 118. Amend § 76.400 in paragraphs (b)(2), (c)(2), and (d) by removing the words ''Federal statutes'' and adding in their place the words ''applicable statutes''.
■ 119. Revise § 76.401 to read as follows:

§ 76.401 Disapproval of an application—opportunity for a hearing.

(a) *State educational agency hearing regarding disapproval of an application.* When financial assistance is provided to (or through) a State educational agency (SEA) consistent with an approved State plan and the SEA takes final action by disapproving or failing to approve an application for a subgrant in whole or in part, the SEA must provide the aggrieved applicant with notice and an opportunity for a hearing regarding the SEA's disapproval or failure to approve the application.

(b) *Applicant request for SEA hearing.* (1) The aggrieved applicant must request a hearing within 30 days of the final action of the SEA.

(2) The aggrieved applicant's request for a hearing must include, at a minimum, a citation to the specific State or Federal statute, rule, regulation, or guideline that the SEA allegedly violated when disapproving or failing to approve the application in whole or in part and a brief description of the alleged violation.

(3) The SEA must make available, at reasonable times and places to each applicant, all records of the SEA pertaining to the SEA's failure to approve the application in whole or in part that is the subject of the applicant's request for a hearing under this paragraph (b).

(c) *SEA hearing procedures.* (1) Within 30 days after it receives a request that meets the requirements of paragraphs (b)(1) and (2) of this section, the SEA must hold a hearing on the record to review its action.

(2) No later than 10 days after the hearing, the SEA must issue its written ruling, including findings of fact and reasons for the ruling.

(3) If the SEA determines that its action was contrary to State or Federal statutes, rules, regulations, or guidelines that govern the applicable program, the SEA must rescind its action in whole or in part.

(d) *Procedures for appeal of SEA action to the Secretary.* (1) If an SEA does not rescind its final action disapproving or failing to approve an application in whole or in part after the SEA conducts a hearing consistent with paragraph (c) of this section, the

applicant may appeal the SEA's final action to the Secretary.

(2) The applicant must file a notice of appeal with the Secretary within 20 days after the applicant has received the SEA's written ruling.

(3) The applicant's notice of appeal must include, at a minimum, a citation to the specific Federal statute, rule, regulation, or guideline that the SEA allegedly violated and a brief description of the alleged violation.

(4) The Secretary may issue interim orders at any time when considering the appeal, including requesting the hearing record and any additional documentation, such as additional documentation regarding the information provided pursuant to paragraph (d)(3) of this section.

(5) After considering the appeal, the Secretary issues an order either affirming the final action of the SEA or requiring the SEA to take appropriate action, if the Secretary determines that the final action of the SEA was contrary to a Federal statute, rule, regulation, or guideline that governs the applicable program.

(e) *Programs administered by State agencies other than an SEA.* Under programs with an approved State plan under which financial assistance is provided to (or through) a State agency that is not the SEA, that State agency is not required to comply with this section unless specifically required to do so by Federal statute or regulation.

■ 120. Amend § 76.500 by revising paragraph (a) and removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 76.500 Constitutional rights, freedom of inquiry, and Federal statutes and regulations on nondiscrimination.

(a) A State and a subgrantee must comply with the following statutes and regulations:

TABLE 1 TO PARAGRAPH (a)

Subject	Statute	Regulation
Discrimination on the basis of race, color, or national origin ..	Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).	34 CFR part 100.
Discrimination on the basis of disability	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).	34 CFR part 104.
Discrimination on the basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*).	34 CFR part 106.
Discrimination on the basis of age	Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*)	34 CFR part 110.

* * * * *

§ 76.532 [Amended]

■ 121. Amend § 76.532 by removing the parenthetical authority citation at the end of the section.

§ 76.533 [Amended]

■ 122. Amend § 76.533 by:

■ a. Removing the words ''the authorizing statute'' and adding in their place the words ''applicable statutes''; and

■ b. Removing the parenthetical authority citation at the end of the section.

■ 123. Revise § 76.560 to read as follows:

§ 76.560 General indirect cost rates and cost allocation plans; exceptions.

(a) The differences between direct and indirect costs and the principles for determining the general indirect cost rate that a grantee may use for grants under most programs are specified in the cost principles for—

(1) All grantees, other than hospitals and commercial (for-profit) organizations, at 2 CFR part 200, subpart E;

(2) Hospitals, at 45 CFR part 75, appendix IX; and

(3) Commercial (for-profit) organizations, at 48 CFR part 31.

(b) Except as specified in paragraph (c) of this section, a grantee must have a current indirect cost rate agreement or approved cost allocation plan to charge indirect costs to a grant. To obtain a negotiated indirect cost rate agreement or approved cost allocation plan, a grantee must submit an indirect cost rate proposal or cost allocation plan to its cognizant agency.

(c) A grantee that meets the requirements in 2 CFR 200.414(f) may elect to charge the *de minimis* rate of modified total direct costs (MTDC) specified in that provision, which may be used indefinitely. The *de minimis* rate may not be used on programs that have statutory or regulatory restrictions on the indirect cost rate. No documentation is required to justify the *de minimis* rate.

(1) If the grantee has established a threshold for equipment that is lower than the amount specified in the Uniform Guidance, the grantee must use that threshold to exclude equipment from the MTDC base.

(2) For purposes of the MTDC base and application of the 10 percent rate, MTDC includes up to the amount specified in the definition of MTDC in the Uniform Guidance of each subaward, each year.

(d) If a grantee is required to, but does not, have a federally recognized indirect cost rate or approved cost allocation plan, the Secretary may permit the grantee to charge a temporary indirect cost rate of 10 percent of budgeted direct salaries and wages.

(e)(1) If a grantee fails to submit an indirect cost rate proposal or cost allocation plan to its cognizant agency within the required 90 days, the grantee may not charge indirect costs to its grant from the end of the 90-day period until it obtains a federally recognized indirect cost rate agreement applicable to the grant.

(2) If the Secretary determines that exceptional circumstances warrant continuation of a temporary indirect cost rate, the Secretary may authorize the grantee to continue charging indirect costs to its grant at the temporary rate specified in paragraph (d) of this section even though the grantee has not submitted its indirect cost rate proposal within the 90-day period.

(3) Once a grantee obtains a federally recognized indirect cost rate that is applicable to the affected grant, the grantee may use that indirect cost rate to claim indirect cost reimbursement for expenditures made on or after the date on which the grantee submitted its indirect cost proposal to its cognizant agency or the start of the project period, whichever is later. However, this authority is subject to the following limitations:

(i) The total amount of funds recovered by the grantee under the federally recognized indirect cost rate is reduced by the amount of indirect costs previously recovered under the temporary indirect cost rate specified in paragraph (d) of this section.

(ii) The grantee must obtain prior approval from the Secretary to shift direct costs to indirect costs in order to recover indirect costs at a higher negotiated indirect cost rate.

(iii) The grantee may not request additional funds to recover indirect costs that it cannot recover by shifting direct costs to indirect costs.

(f) The Secretary accepts a negotiated indirect cost rate or approved cost allocation plan but may establish a restricted indirect cost rate or cost allocation plan compliant with §§ 76.564 through 76.569 for a grantee to satisfy the statutory requirements of certain programs administered by the Department.

■ 124. Revise § 76.561 to read as follows:

§ 76.561 Approval of indirect cost rates and cost allocation plans.

(a) If the Department of Education is the cognizant agency, the Secretary approves an indirect cost rate or cost allocation plan for a State agency and for a subgrantee other than a local educational agency. For the purposes of this section, the term ''local educational agency'' does not include a State agency.

(b) Each State educational agency, on the basis of a plan approved by the Secretary, must approve an indirect cost rate for each local educational agency that requests it to do so.

(c) The Secretary generally approves indirect cost rate agreements annually. Indirect cost rate agreements may be approved for periods longer than a year if the Secretary determines that rates will be sufficiently stable to justify a longer rate period.

■ 125. Add § 76.562 to read as follows:

§ 76.562 Reimbursement of indirect costs.

(a) Reimbursement of indirect costs is subject to the availability of funds and statutory or administrative restrictions.

(b) The application of the negotiated indirect cost rate (determination of the direct cost base) or cost allocation plan (charging methodology) must be in accordance with the agreement/plan approved by the grantee's cognizant agency.

(c) Indirect costs for joint applications and projects (see § 76.303) are limited to the amount derived by applying the rate of the applicant, or a restricted rate when applicable, to the direct cost base for the grant in keeping with the terms of the applicant's federally recognized indirect cost rate agreement and program requirements.

§ 76.563 [Amended]

■ 126. Amend § 76.563 by:

■ a. Removing the words ''agencies of State and local governments that are grantees under'';

■ b. Removing the words ''their subgrantees'' and adding in their place the word ''subgrants''; and

■ c. Removing the parenthetical authority citation at the end of the section.

■ 127. Revise § 76.654 to read as follows:

§ 76.564 Restricted indirect cost rate formula.

(a) An indirect cost rate for a grant covered by §§ 76.563 or 75.563 is determined by the following formula: Restricted indirect cost rate = (General management costs + Fixed costs) ÷ (Other expenditures).

(b) General management costs, fixed costs, and other expenditures must be determined under §§ 76.565 through 76.567.

(c) Under the programs covered by § 76.563, a grantee or subgrantee that is not a State or local government agency—

(1) Must use a negotiated restricted indirect cost rate computed under paragraph (a) of this section or cost allocation plan that complies with the formula in paragraph (a) of this section; or

(2) May elect to use an indirect cost rate of 8 percent of the modified total direct costs (MTDC) base if the grantee or subgrantee does not have a negotiated restricted indirect cost rate. MTDC is defined in 2 CFR 200.1. If the Secretary determines that the grantee or subgrantee would have a lower rate as calculated under paragraph (a) of this section, the lower rate must be used for the affected program.

(3) If the grantee has established a threshold for equipment that is lower than the amount specified in the Uniform Guidance, the grantee must use that threshold to exclude equipment from the MTDC base.

(4) For purposes of the MTDC base and application of the 8 percent rate, MTDC includes up to the amount specified in the definition of MTDC in the Uniform Guidance of each subaward, each year.

(d) Indirect costs that are unrecovered as a result of these restrictions may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

§ 76.565 [Amended]

■ 128. Amend § 76.565 by removing the parenthetical authority citation at the end of the section.

§ 76.566 [Amended]

■ 129. Amend § 76.566 by:

■ a. In the introductory text, adding the word ''allowable'' before the words ''indirect costs''; and

■ b. Removing the parenthetical authority citation at the end of the section.

■ 130. Amend § 76.567 by:

■ a. Revising paragraph (b)(3);

■ b. In paragraph (b)(7), removing the punctuation and word ''; and'';

■ c. Redesignating paragraph (b)(8) as paragraph (b)(9);

■ d. Adding a new paragraph (b)(8); and

■ e. Removing the parenthetical authority citation at the end of the section.

The revision and addition read as follows:

§ 76.567 Other expenditures—restricted rate.

* * * * *

(b) * * *

(3) Subawards exceeding the amount specified in the definition of Modified Total Direct Cost in the Uniform Guidance each, per year;

* * * * *

(8) Other distorting items; and

* * * * *

§ 76.568 [Amended]

■ 131. Amend § 76.568 by:

■ a. In paragraph (c), adding the word ''(denominator)'' after the word ''expenditures''; and

■ b. Removing the parenthetical authority citation at the end of the section.

■ 132. Amend § 76.569 by:

■ a. Revising paragraph (a) and removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 76.569 Using the restricted indirect cost rate.

(a) Under the programs referenced in §§ 75.563 and 76.563, the maximum amount of indirect costs recovery under a grant is determined by the following formula: Indirect costs = (Restricted indirect cost rate) × (Total direct costs of the grant minus capital outlays, subawards exceeding amount specified in the definition of Modified Total Direct Cost in the Uniform Guidance each, per year, and other distorting or unallowable items as specified in the grantee's indirect cost rate agreement)

* * * * *

§ 76.580 [Amended]

■ 133. Amend § 76.580 by removing the parenthetical authority citation at the end of the section.

■ 134. Revise § 76.600 to read as follows:

§ 76.600 Where to find the construction regulations.

(a) A State or a subgrantee that requests program funds for construction, or whose grant or subgrant includes funds for construction, must comply

with the rules on construction that apply to applicants and grantees under 34 CFR 75.600 through 75.618.

(b) The State must perform the functions of the Secretary for subgrantee requests under 34 CFR 75.601 (Approval of the construction).

(c) The State must perform the functions that the Secretary performs under 34 CFR 75.614(b). The State may consult with the State Historic Preservation Officer and Tribal Historic Preservation Officer to identify and evaluate historic properties and assess effects. The Secretary will continue to participate in the consultation process when:

(1) The State determines that ''Criteria of Adverse Effect'' applies to a project;

(2) There is a disagreement between the State and the State Historic Preservation Officer or Tribal Historic Preservation Officer regarding identification and evaluation or assessment of effects;

(3) There is an objection from consulting parties or the public regarding findings, determinations, the implementation of agreed-upon provisions, or their involvement in a National Historic Preservation Act Section 106 review (see 36 CFR part 800); or

(4) There is the potential for a foreclosure situation or anticipatory demolition as specified in Section 110(k) of the National Historic Preservation Act (see 36 CFR part 800).

(d) The State must provide to the Secretary the information required under 34 CFR 75.614(a) (Preservation of historic sites).

(e) The State must submit periodic reports to the Secretary regarding the State's review and approval of construction or real property projects containing information specified by the Secretary consistent with 2 CFR 200.329(d).

■ 135. Revise the undesignated center heading before § 76.650 and revise § 76.650 to read as follows:

Participation of Private School Children, Teachers or Other Educational Personnel, and Families

§ 76.650 Participation of private school children, teachers or other educational personnel, and families.

If a program provides for participation by private school children, teachers or other educational personnel, and families, and the program is not otherwise governed by applicable regulations, the grantee or subgrantee must provide, as applicable, services in accordance with the requirements under §§ 76.651 through 76.662.

■ 136. Revise § 76.652 to read as follows:

§ 76.652 Consultation with representatives of private school students.

A subgrantee must consult with appropriate private school officials in accordance with the requirements in § 299.7.

§ 76.661 [Amended]

■ 137. Amend § 76.661(c) by removing the word ''insure'' and adding in its place the word ''ensure''.

§ 76.662 [Amended]

■ 138. Amend § 76.662 by removing the word ''insure'' and adding in its place the word ''ensure''.

§ 76.665 [Removed and Reserved]

■ 139. Remove the undesignated center heading ''Equitable Services under the CARES Act'' above § 76.665 and remove and reserve § 76.665.

§§ 76.670 through 76.677 [Removed and Reserved]

■ 140. Remove the undesignated section heading ''Procedures for Bypass'' above § 76.670 and remove and reserve §§ 76.670 through 76.677.

§ 76.682 [Amended]

■ 141. Amend § 76.682 by removing the parenthetical authority citation at the end of the section.

§ 76.702 [Amended]

■ 142. Amend § 76.702 by removing the word ''insure'' and adding in its place the word ''ensure''.

■ 143. Amend § 76.707 by revising paragraph (h) and removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 76.707 When obligations are made.

* * * * *

If the obligation is for—	The obligation is made—
* * * * * * *	
(h) A pre-agreement cost that was properly approved by the Secretary under the cost principles in 2 CFR part 200, subpart E.	On the first day of the grant or subgrant period of performance.

§ 76.708 [Amended]

■ 144. Amend § 76.708 by:

■ a. In paragraph (a) introductory text, removing the words ''the authorizing statute'' and adding in their place the words ''applicable statutes and regulations'', removing the word ''requires'' and adding in its place the word ''require'', and removing the words ''(see § 76.5)'' and adding, in their place, the words ''(see § 76.51(a))'';

■ b. In paragraph (c), removing the words ''the authorizing statute'' and adding in their place the words ''applicable statutes and regulations'' and removing the word ''gives'' and adding in its place the word ''give''; and

■ c. Removing the parenthetical authority citation at the end of the section.

§ 76.709 [Amended]

■ 145. Amend § 76.709 by removing the Note and the parenthetical authority citation at the end of the section.

§ 76.710 [Amended]

■ 146. Amend § 76.710 by removing the Note and the parenthetical authority citation at the end of the section.

§ 76.711 [Amended]

■ 147. Amend § 76.711 by:

■ a. In the section heading, removing the abbreviation ''CFDA'' and adding in its place the abbreviation ''ALN''; and

■ b. Removing the phrase ''Catalog of Federal Domestic Assistance (CFDA)'' and adding in its place the phrase ''Assistance Listing Number (ALN)''.

§ 76.714 [Amended]

■ 148. Amend § 76.714 by adding '', as defined in § 76.52(c)(3),'' after ''Federal financial assistance''.

■ 149. Amend § 76.720 by:

■ a. Revising and republishing paragraph (a) introductory text;

■ b. In paragraph (c)(2), removing the words ''the General Education Provisions Act'' and adding in their place the word ''GEPA''; and

■ c. Removing the parenthetical authority citation at the end of the section.

§ 76.720 State reporting requirements.

(a) This section applies to a State's reports required for monitoring and continuous improvement, including 2 CFR 200.328 (Financial reporting) and 2 CFR 200.329 (Monitoring and reporting

program performance), and other reports required by the Secretary and approved by the Office of Management and Budget (OMB) under the Subpart 1 of Chapter 35 (sections 3501–3521) of Title 44, U.S. Code, commonly known as the ''Paperwork Reduction Act.''

* * * * *

■ 150. Revise § 76.722 to read as follows:

§ 76.722 Subgrantee reporting requirements.

A State may require a subgrantee to submit reports in a manner and format that assists the State in complying with the requirements under 34 CFR 76.720, in carrying out other responsibilities under the program, engaging in periodic review and continuous improvement of the State's plan, and supporting the subgrantee in engaging in periodic review and continuous improvement of the subgrantee's plan.

■ 151. Add a new § 76.732 before the undesignated center heading ''Privacy'' to read as follows:

§ 76.732 Records related to performance.

(a) A grantee must keep records of significant project experiences and results.

(b) The grantee must use the records under paragraph (a) to—

(1) Determine progress in accomplishing project objectives;

(2) Inform periodic review and continuous improvement of the project plans; and

(3) Revise those project objectives, if necessary.

■ 152. Amend § 76.740 by:

■ a. In paragraph (a), removing the number ''438'' in the first sentence and adding in its place the number ''444''; and revising the parenthetical sentence at the end;

■ b. In paragraph (b), removing the number ''439'' and adding in its place the number ''445''; and adding the words ''(20 U.S.C. 1232h; commonly known as the ''Protection of Pupil Rights Amendment'' or ''PPRA'')'' after the words ''of GEPA''; and

■ c. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 76.740 Protection of and access to student records; student rights in research, experimental programs, and testing.

(a) * * * (Section 444 of GEPA (20 U.S.C. 1232g) is commonly referred to as the ''Family Educational Rights and Privacy Act of 1974'' or ''FERPA''.)

* * * * *

§ 76.761 [Amended]

■ 153. Amend § 76.761 in paragraph (b) by removing the words ''the authorizing statute and implementing regulations for the program'' and adding in their place the words ''applicable statutes and regulations''.

■ 154. Amend § 76.783 by:

■ a. In paragraph (a)(1), removing the word ''or'';

■ b. In paragraph (a)(2), removing the period and adding in its place ''; or'';

■ c. Adding paragraph (a)(3);

■ d. Removing the citation ''76.401(d)(2)–(7)'' in paragraph (b) and adding in its place the citation ''76.401(a) through (d)''; and

■ e. Removing the Note and parenthetical authority citation at the end of the section.

The addition reads as follows:

§ 76.783 State educational agency action—subgrantee's opportunity for a hearing.

(a) * * *

(3) Failing to provide funds in amounts in accordance with the requirements of applicable statutes and regulations.

* * * * *

§ 76.785 [Amended]

■ 155. Amend § 76.785 by:

■ a. Removing the words ''section 10306'' and adding in their place the words ''section 4306''; and

■ b. Removing the parenthetical authority citation at the end of the section.

§ 76.786 [Amended]

■ 156. Amend § 76.786 by:

■ a. In paragraph (a), removing the words ''Public Charter Schools Program'' and adding in their place the words ''Charter School State Entity Grant Program''; and

■ b. Removing the parenthetical authority citation at the end of the section.

§ 76.787 [Amended]

■ 157. Amend § 76.787 by:

■ a. In the definition of ''Charter school,'' removing the words ''title X, part C of the ESEA'' and adding in their place the words ''section 4310(2) of the ESEA (20 U.S.C. 7221i(2))'';

■ b. In the definition of ''Covered program,'' removing the words ''an elementary or secondary education program administered by the Department under which the Secretary allocates funds to States on a formula basis'' and adding in their place the words ''a State-administered formula grant program'';

■ c. In the definition of ''Local educational agency,'' removing the words ''the authorizing statute'' and adding in their place the words ''applicable statutes and regulations''; and

■ d. Removing the parenthetical authority citation at the end of the section.

■ 158. Revise the undesignated center heading before § 76.788 to read ''Responsibilities for Notice and Information''.

§ 76.788 [Amended]

■ 159. Amend § 76.788 by:

■ a. In paragraph (c), removing the words ''the authorizing statute or implementing regulations for the applicable covered program'' and adding in their place the words ''applicable statutes or regulations''; and

■ b. Removing the parenthetical authority citation at the end of the section.

§ 76.900 [Amended]

■ 160. Amend § 76.900 by removing ''ED'' in paragraphs (a) and (b) and adding in its place the words ''the Department''.

§ 76.901 [Amended]

■ 161. Amend § 76.901 by:

■ a. In paragraph (a) introductory text, removing the words ''Part E'' and adding in their place the words ''Part D (20 U.S.C. 1234–1234h)''; and

■ b. Removing the parenthetical authority citation at the end of the section.

PART 77—DEFINITIONS THAT APPLY TO DEPARTMENT REGULATIONS

■ 162. The authority citation for part 77 continues to read as follows:

Authority: 20 U.S.C. 1221e–3 and 3474, unless otherwise noted.

■ 163. Amend § 77.1 by:

■ a. Revising paragraph (b); and

■ b. In paragraph (c):

■ i. In the definition of ''Applicant'', removing the word ''requesting'' and adding in its place the words ''applying for'';

■ ii. In the definition of ''Award'', removing the words ''the definition of'';

■ iii. In the definition of ''Budget'', removing the words ''that recipient's'' and adding in their place ''a recipient's'';

■ iv. Adding in alphabetical order a definition for ''Construction'';

■ v. Adding in alphabetical order a definition for ''Continuous improvement'';

■ vi. Revising the definition of ''Demonstrates a rationale'';

■ vii. Removing the definitions of ''Direct grant program'' and ''Director of the Institute of Museum Services'';

■ viii. Revising the definition of ''Director of the National Institute of Education'';
■ ix. Adding in alphabetical order a definition for ''Evaluation'';
■ x. In the definition of ''Evidence-based'', adding '', for the purposes of 34 CFR part 75,'' after the word ''Evidence-based'';
■ xi. Adding in alphabetical order a definition for ''Evidence-building'';
■ xii. In the definition of ''GEPA'', removing the word ''The'' and adding in its place the word ''the'';
■ xiii. Adding in alphabetical order a definition for ''Independent evaluation'';
■ xiv. Revising the definitions of ''Minor remodeling'', ''Moderate evidence'', and ''National level'';
■ xv. Adding in alphabetical order a definition for ''Peer-reviewed scholarly publication'';
■ xvi. In the definition of ''Project period'', removing the citation ''2 CFR 200.77'' and adding in its place the citation ''2 CFR 200.1'';
■ xvii. Revising the definition of ''Promising evidence'';
■ xviii. Adding in alphabetical order a definition for ''Quality data'';
■ xix. Revising the definitions of ''Regional level'', ''State'', and ''Strong evidence'';
■ xx. Adding in alphabetical order a definition for ''Scientific data'';
■ xxi. In the definition of ''Subgrant'', removing the words ''definition of ''grant or award''' and adding in their place the words ''definitions of ''Grant'' or ''Award''';
■ xxii. Revising the definition of ''What Works Clearinghouse (WWC) Handbooks (WWC Handbooks)''; and
■ xxiii. In the definition of ''Work of art'', removing the word ''facilities'' and adding it its place the words ''a facility''.

The revisions and additions read as follows:

§ 77.1 Definitions that apply to all Department programs.

* * * * *

(b) Unless a statute or regulation provides otherwise, the following definitions in 2 CFR part 200 apply to the regulations in subtitles A and B of this title. The following terms have the definitions given those terms in 2 CFR 200.1. Phrasing given in parentheses references the term or terms used in title 34 that are consistent with the term defined in title 2.

Contract. (See definition in 2 CFR 200.1.)

Equipment. (See definition in 2 CFR 200.1.)

Federal award. (See definition in 2 CFR 200.1.) (The terms ''award,'' ''grant,'' and ''subgrant'', as defined in paragraph (c) of this section, have the same meaning, depending on the context, as ''Federal award'' in 2 CFR 200.1.).

Period of performance. (See definition in 2 CFR 200.1.) (For discretionary grants, the Department uses the term ''project period,'' as defined in paragraph (c) of this section, instead of ''period of performance,'' to describe the period during which funds can be obligated by the grantee.).

Personal property. (See definition in 2 CFR 200.1.)

Real property. (See definition in 2 CFR 200.1.)

Recipient. (See definition in 2 CFR 200.1.)

Subaward. (See definition in 2 CFR 200.1.) (The term ''subgrant,'' as defined in paragraph (c) of this section, has the same meaning as ''subaward'' in 2 CFR 200.1).

Supplies. (See definition in 2 CFR 200.1.)

(c) * * *

Construction means the preparation of drawings and specifications for a facilities project; erecting, building, demolishing, acquiring, renovating, major remodeling of, or extending a facilities project; or inspecting and supervising the construction of a facilities project. Construction does not include minor remodeling.

* * * * *

Continuous improvement means using plans for collecting and analyzing data about a project component's implementation and outcomes (including the pace and extent to which project outcomes are being met) to inform necessary changes throughout the project. These plans may include strategies to gather ongoing feedback from participants and stakeholders on the implementation of the project component.

* * * * *

Demonstrates a rationale means that there is a key project component included in the project's logic model that is supported by citations of high-quality research or evaluation findings that suggest that the project component is likely to significantly improve relevant outcomes.

* * * * *

Director of the Institute of Education Sciences means the Director of the Institute of Education Sciences or an officer or employee of the Institute of Education Sciences acting for the Director under a delegation of authority.

* * * * *

Evaluation means an assessment using systematic data collection and analysis of one or more programs, policies, practices, and organizations intended to assess their implementation, outcomes, effectiveness, or efficiency.

* * * * *

Evidence-building means a systematic plan for identifying and answering questions relevant to programs and policies through performance measurement, exploratory studies, or program evaluation.

* * * * *

Independent evaluation means an evaluation of a project component that is designed and carried out independently of, but in coordination with, the entities that develop or implement the project component.

* * * * *

Minor remodeling means minor alterations in a previously completed facilities project. The term also includes the extension of utility lines, such as water and electricity, from points beyond the confines of the space in which the minor remodeling is undertaken but within the confines of the previously completed facility. The term may also include related designs and drawings for these projects. The term does not include construction or renovation, structural alterations to buildings, facilities maintenance, or repairs.

Moderate evidence means evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, 4.1, or 5.0 of the WWC Handbooks reporting ''strong evidence'' or ''moderate evidence'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, 4.1, or 5.0 of the WWC Handbooks reporting ''Tier 1 strong evidence'' of effectiveness or ''Tier 2 moderate evidence'' of effectiveness or a ''positive effect'' on a relevant outcome based on a sample including at least 20 students or other individuals from more than one site (such as a State, county, city, local educational agency (LEA), school, or postsecondary campus), or a ''potentially positive effect'' on a relevant outcome based on a sample including at least 350 students or other individuals from more than one site (such as a State, county, city, LEA, school, or postsecondary campus), with no reporting of a ''negative effect'' or

''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC most recently using version 2.1, 3.0, 4.0, 4.1, or 5.0 of the WWC Handbooks, or otherwise assessed by the Department using version 5.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, 4.1, or 5.0 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (such as a State, county, city, LEA, school, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet the requirements in paragraphs (iii)(A) through (C) of this definition may together satisfy the requirement in this paragraph (iii)(D).

National level means the level of scope or effectiveness of a project component that is able to be effective in a wide variety of communities, including rural and urban areas, as well as groups with different characteristics (such as socioeconomic status, race, ethnicity, gender, disability, language, and migrant status), populations, and settings.

* * * * *

Peer-reviewed scholarly publication means a final peer-reviewed manuscript accepted for publication, that arises from research funded, either fully or partially, by Federal funds awarded through a Department-managed grant, contract, or other agreement. A final peer-reviewed manuscript is defined as an author's final manuscript of a peer-reviewed scholarly paper accepted for publication, including all modifications resulting from the peer review process. The final peer-reviewed manuscript is not the same as the final published article, which is defined as a publisher's authoritative copy of the paper including all modifications from the publishing peer review process, copyediting, stylistic edits, and formatting changes. However, the content included in both the final peer-reviewed manuscript and the final published article, including all findings, tables, and figures should be identical.

* * * * *

Promising evidence means evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC reporting ''strong evidence'', ''moderate evidence'', or ''promising evidence'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting ''Tier 1 strong evidence'' of effectiveness, or ''Tier 2 moderate evidence'' of effectiveness, or ''Tier 3 promising evidence'' of effectiveness, or a ''positive effect,'' or ''potentially positive effect'' on a relevant outcome, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (such as a study using regression methods to account for differences between a treatment group and a comparison group);

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome; and

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report.

* * * * *

Quality data encompasses utility, objectivity, and integrity of the information. ''Utility'' refers to how the data will be used, either for its intended use or other uses. ''Objectivity'' refers to data being accurate, complete, reliable, and unbiased. ''Integrity'' refers to the protection of data from being manipulated.

* * * * *

Regional level means the level of scope or effectiveness of a project component that is able to serve a variety of communities within a State or multiple States, including rural and urban areas, as well as groups with different characteristics (such as socioeconomic status, race, ethnicity, gender, disability, language, and migrant status). For an LEA-based project, to be considered a regional-level project, a project component must serve students in more than one LEA, unless the project component is implemented in a State in which the State educational agency is the sole educational agency for all schools.

* * * * *

Scientific data include the recorded factual material commonly accepted in the scientific community as of sufficient quality to validate and replicate research findings. Such scientific data do not include laboratory notebooks, preliminary analyses, case report forms, drafts of scientific papers, plans for future research, peer reviews, communications with colleagues, or physical objects and materials, such as laboratory specimens, artifacts, or field notes.

* * * * *

State means any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

* * * * *

Strong evidence means evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, 4.1, or 5.0 of the WWC Handbooks reporting ''strong evidence'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, 4.1, or 5.0 of the WWC Handbooks reporting ''Tier 1 strong evidence'' of effectiveness or a ''positive effect'' on a relevant outcome based on a sample including at least 350 students or other individuals across more than one site (such as a State, county, city, local educational agency (LEA), school, or postsecondary campus), with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC most recently using version 2.1, 3.0, 4.0, 4.1, or 5.0 of the WWC Handbooks, or otherwise assessed by the Department using version 5.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC

intervention report prepared under version 2.1, 3.0, 4.0, 4.1, or 5.0 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (such as a State, county, city, LEA, school, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet the requirements in paragraphs (iii)(A) through (C) of this definition may together satisfy the requirement in this paragraph (iii)(D).

* * * * *

What Works Clearinghouse (WWC) Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 5.0, or in the WWC Standards Handbook, Version 4.0 or 4.1, or in the WWC Procedures Handbook, Version 4.0 or 4.1, the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference; see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

* * * * *

■ 164. Revise § 77.2 to read as follows:

§ 77.2 Incorporation by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the Department of Education (the Department) and the National Archives and Records Administration (NARA). Contact the Department at: Institute of Education Sciences, National Center for Education Evaluation and Regional Assistance, 550 12th Street SW, PCP–4158, Washington, DC, 20202–5900; phone: (202) 245–6940; email: *Contact.WWC@ed.gov*. For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov*. The following material may be obtained from Institute of Education Sciences, 550 12th Street SW, Washington, DC, 20202; phone: (202) 245–6940; website: *http://ies.ed.gov/ncee/wwc/Handbooks*.

(a) What Works Clearinghouse Procedures and Standards Handbook, WWC 2022008REV, Version 5.0, August 2022; Revised December 2022; IBR approved for § 77.1.

(b) What Works Clearinghouse Standards Handbook, Version 4.1, January 2020, IBR approved for § 77.1.

(c) What Works Clearinghouse Procedures Handbook, Version 4.1, January 2020, IBR approved for § 77.1.

(d) What Works Clearinghouse Standards Handbook, Version 4.0, October 2017, IBR approved for § 77.1.

(e) What Works Clearinghouse Procedures Handbook, Version 4.0, October 2017, IBR approved for § 77.1.

(f) What Works Clearinghouse Procedures and Standards Handbook, Version 3.0, March 2014, IBR approved for § 77.1.

(g) What Works Clearinghouse Procedures and Standards Handbook, Version 2.1, September 2011, IBR approved for § 77.1.

PART 79—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES

■ 165. Revise the authority citation for part 79 to read as follows:

Authority: 31 U.S.C. 6506; 42 U.S.C. 3334; and E.O. 12372, unless otherwise noted.

Section 79.2 also issued under E.O. 12372.

■ 166. In part 79, remove the word ''state'' wherever it appears and in its place add the word ''State'' and remove the word ''states'' where it appears and in its place add the word ''States''.

§ 79.1 [Amended]

■ 167. Amend § 79.1 by removing the second sentence in paragraph (a).

■ 168. Amend § 79.2 by:

■ a. Removing the definitions of ''Department'' and ''Secretary''.

■ b. Revising the definition of ''State''.

■ c. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 79.2 What definitions apply to these regulations?

* * * * *

State means any of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

§ 79.3 [Amended]

■ 169. Amend § 79.3 by:

■ a. In paragraph (a), removing the words ''and identifies which of these are subject to the requirements of section 204 of the Demonstration Cities and Metropolitan Development Act'';

■ b. In paragraph (c)(6), removing the words ''(*e.g.,* block grants under Chapter 2 of the Education Consolidation and Improvement Act of 1981)''; and

■ c. In paragraph (c)(7), removing the words ''development national'' and adding in their place the words ''development that is national''.

§ 79.4 [Amended]

■ 170. Amend § 79.4 in paragraph (b)(3) by removing the word ''official's'' and adding in its place the word ''officials''.

§ 79.5 [Amended]

■ 171. Amend § 79.5 by removing the word ''assure'' and adding in its place the word ''ensure''.

§ 79.6 [Amended]

■ 172. Amend § 79.6(d) by removing the word ''state's'' and adding in its place the word ''State's''.

§ 79.8 [Amended]

■ 173. Amend § 79.8 by removing paragraph (d).

§ 79.9 [Amended]

■ 174. Amend § 79.9 in paragraph (e) by removing the words ''of this part''.

§ 79.10 [Amended]

■ 175. Amend § 79.10 in paragraph (a)(2) by removing the words ''a mutually agreeable solution with the state process'' and adding in their place the words ''an agreement with the State''.

PART 299—GENERAL PROVISIONS

■ 176. The authority citation for part 299 is revised to read as follows:

Authority: 20 U.S.C. 1221e-3 and 3474, unless otherwise noted.

Section 299.4 also issued under 20 U.S.C. 7821 and 7823.

Section 299.5 also issued under 20 U.S.C. 7428(c), 7801(11), 7901.

Section 299.6 also issued under 20 U.S.C. 7881.

Section 299.7 also issued under 20 U.S.C. 7881.

Section 299.8 also issued under 20 U.S.C. 7881.

Section 299.9 also issued under 20 U.S.C. 7881.

Section 299.10 also issued under 20 U.S.C. 7881.

Section 299.11 also issued under 20 U.S.C. 7881.

Section 299.12 also issued under 20 U.S.C. 7881(a)(3)(B).

Section 299.13 also issued under 20 U.S.C. 7844(a)(3)(C), 7883.

Section 299.14 also issued under 20 U.S.C. 7844(a)(3)(C), 7883.

Section 299.15 also issued under 20 U.S.C. 7844(a)(3)(C), 7883.

Section 299.16 also issued under 20 U.S.C. 7883.

Section 299.17 also issued under 20 U.S.C. 7883.

Section 299.18 issued under 20 U.S.C. 6320(e), 7882, and 7883.

Section 299.19 issued under 20 U.S.C. 6320(e) and 7882(a).

Section 299.20 issued under 20 U.S.C. 6320(b)(6) and (e), 7881(c)(6), 7882, and 7883.

Section 299.21 issued under 20 U.S.C. 7884(a)(1).

Section 299.22 issued under 20 U.S.C. 7884(a)(1).

Section 299.23 issued under 20 U.S.C. 7884(a)(1).

Section 299.24 issued under 20 U.S.C. 7884(a)(1).

Section 299.25 issued under 20 U.S.C. 7884(a)(1).

Section 299.26 issued under 20 U.S.C. 7884(a)(1).

Section 299.27 issued under 20 U.S.C. 7884(a)(2).

Section 299.28 issued under 20 U.S.C. 7884(b).

§§ 299.7 through 299.13 [Redesignated as §§ 299.9 through 299.15]

■ 177. Redesignate §§ 299.7 through 299.13 as §§ 299.9 through 299.15.

■ 178. Add new §§ 299.7 and 299.8 to subpart E to read as follows:

§ 299.7 What are the requirements for consultation?

(a)(1) In order to have timely and meaningful consultation, an agency, consortium, or entity must—

(i) Consult with appropriate private school officials during the design and development of the agency, consortium, or entity's program for eligible private school children and their teachers and other educational personnel; and

(ii) Consult before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children and their teachers and other educational personnel to participate in the applicable program.

(2) Such consultation must continue throughout the implementation and assessment of equitable services.

(b) Both the agency, consortium, or entity and private school officials must have the goal of reaching agreement on how to provide equitable and effective programs for private school children and their teachers and other educational personnel, including, at a minimum, on issues such as—

(1) How the agency, consortium, or entity will identify the needs of eligible private school children and their teachers and other educational personnel;

(2) What services the agency, consortium, or entity will offer to eligible private school children and their teachers and other educational personnel;

(3) How and when the agency, consortium, or entity will make decisions about the delivery of services;

(4) How, where, and by whom the agency, consortium, or entity will provide services to eligible private school children and their teachers and other educational personnel;

(5) How the agency, consortium, or entity will assess the services and use the results of the assessment to improve those services;

(6) Whether the agency, consortium, or entity will provide services directly or through a separate government agency, consortium, entity, or third-party contractor;

(7) The size and scope of the equitable services that the agency, consortium, or entity will provide to eligible private school children and their teachers and other educational personnel, the amount of funds available for those services, and how that amount is determined; and

(8) Whether to provide equitable services to eligible private school children and their teachers and other educational personnel—

(i) On a school-by-school basis;

(ii) By creating a pool or pools of funds with all the funds allocated under the applicable program based on the amount of funding allocated for equitable services to two or more participating private schools served by the same agency, consortium, or entity, provided that all the affected private schools agree to receive services in this way; or

(iii) By creating a pool or pools of funds with all the funds allocated under the applicable program based on the amount of funding allocated for equitable services to two or more participating private schools served across multiple agencies, consortia, or entities, provided that all the affected private schools agree to receive services in this way.

(c)(1) Consultation must include—

(i) A discussion of service delivery mechanisms the agency, consortium, or entity can use to provide equitable services to eligible private school children and their teachers and other educational personnel; and

(ii) A thorough consideration and analysis of the views of private school officials on the provision of services through a contract with a third-party provider.

(2) If the agency, consortium, or entity disagrees with the views of private school officials on the provision of services through a contract, the agency, consortium, or entity must provide in writing to the private school officials the reasons why the agency, consortium, or entity chooses not to use a contractor.

(d)(1) The agency, consortium, or entity must maintain in its records and provide to the SEA a written affirmation, signed by officials of each private school with participating children or appropriate private school representatives, that the required consultation has occurred. The written affirmation must provide the option for private school officials to indicate such officials' belief that timely and meaningful consultation has not occurred or that the program design is not equitable with respect to eligible private school children.

(2) If private school officials do not provide the affirmations within a reasonable period of time, the agency, consortium, or entity must submit to the SEA documentation that the required consultation occurred.

(e) A private school official has the right to complain to the SEA that the agency, consortium, or entity did not—

(1) Engage in timely and meaningful consultation;

(2) Give due consideration to the views of the private school official; or

(3) Make a decision that treats the private school or its students equitably as required by this section.

§ 299.8 Use of Private School Personnel.

A grantee or subgrantee may use program funds to pay for the services of an employee of a private school if:

(a) The employee performs the services outside of his or her regular hours of duty; and

(b) The employee performs the services under public supervision and control.

■ 179. Transfer newly redesignated § 299.12 from subpart F to subpart E and revise it to read as follows:

§ 299.12 Ombudsman.

To help ensure equity for eligible private school children, teachers, and other educational personnel, an SEA must direct the ombudsman designated under section 1117 of the ESEA and § 200.68 to monitor and enforce the requirements in §§ 299.6 through 299.11.

■ 180. Add §§ 299.16 and 299.17 to subpart F to read as follows:

§ 299.16 What must an SEA include in its written resolution of a complaint?

An SEA must include the following in its written resolution of a complaint under an applicable program:

(a) A description of applicable statutory and regulatory requirements.

(b) A description of the procedural history of the complaint.

(c) Findings of fact supported by citation, including page numbers, to supporting documents under paragraph (h) of this section.

(d) Analysis and conclusions regarding the requirements.

(e) Corrective actions, if applicable.

(f) A statement of applicable appeal rights.

(g) A statement regarding the State's determination about whether it will provide services.

(h) All documents the SEA relied on in reaching its decision, paginated consecutively.

§ 299.17 What must a party seeking to appeal an SEA's written resolution of a complaint or failure to resolve a complaint in 45 days include in its appeal request?

(a) A party appealing an SEA's written resolution of a complaint, or failure to resolve a complaint, must include the following in its request within 30 days of either the SEA's resolution or the 45-day time limit:

(1) A clear and concise statement of the parts of the SEA's decision being appealed, if applicable.

(2) The legal and factual basis for the appeal.

(3) A copy of the complaint filed with the SEA.

(4) A copy of the SEA's written resolution of the complaint being appealed, if one is available, including all supporting documentation required under § 299.16(h).

(5) Any supporting documentation not included as part of the SEA's written resolution of the complaint being appealed.

(b) Unless substantiating documentation identified in paragraph (a) of this section is provided to the Department, the appeal is not considered complete. Statutory or regulatory time limits are stayed until the appeal is complete as determined by the Department.

(c) In resolving the appeal, if the Department determines that additional information is necessary, all applicable statutory or regulatory time limits are stayed pending receipt of that information.

■ 181. Add subpart G, consisting of §§ 299.18 through 299.28 to read as follows:

Subpart G—Procedures for Bypass

Subpart G—Procedures for Bypass

§ 299.18 Applicability.

The regulations in this subpart apply to part A of Title I and applicable programs under section 8501(b)(1) of the ESEA under which the Secretary is authorized to waive the requirements for providing services to private school children, teachers or other educational personnel, and families, as applicable, and to implement a bypass.

§ 299.19 Bypass—general.

(a) The Secretary arranges for a bypass if—

(1) An agency, consortium, or entity is prohibited by law from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary and secondary schools, on an equitable basis; or

(2) The Secretary determines that the agency, consortium, or entity has substantially failed, or is unwilling, to provide for that participation as required by section 1117 or 8501 of the ESEA, as applicable.

(b) If the Secretary determines that a bypass is appropriate after following the requirements in §§ 299.21 through 299.26, the Secretary—

(1) Waives the requirements under section 1117 or 8501 of the ESEA, as applicable, for the agency, consortium, or entity; and

(2) Arranges for the provision of equitable services to those children, teachers or other educational personnel, and families, as applicable, through arrangements subject to the requirements of section 1117 or 8501 of the ESEA, as applicable, and sections 8503 and 8504 of the ESEA.

§ 299.20 Requesting a bypass.

(a) A private school official may request a bypass of an agency, consortium, or entity under the following circumstances:

(1) The private school official has—

(i) Filed a complaint with the State educational agency (SEA) under section 1117(b)(6)(A)–(B) or section 8501(c)(6)(A)–(B) of the ESEA and §§ 299.13 through 299.17 that an agency, consortium, or entity other than the SEA has substantially failed or is unwilling to provide equitable services;

(ii) Requested that the SEA provide equitable services on behalf of the agency, consortium, or entity under section 1117(b)(6)(C) or section 8501(c)(6)(C) of the ESEA; and

(iii) Submitted an appeal of the SEA's resolution of the complaint filed under this paragraph (a)(1) to the Secretary under section 8503(b) of the ESEA and § 299.17.

(2) If an SEA has substantially failed, or is unwilling, to provide equitable services, the private school official has—

(i) Filed a complaint with the SEA under section 8503(a) of the ESEA and §§ 299.13 through 299.16; and

(ii) Submitted an appeal to the Secretary under section 8503(b) of the ESEA and § 299.17 of the SEA's resolution of the complaint filed under paragraph (a)(1) of this section in which the private school official requests a bypass.

(b) An agency, consortium, or entity may request that the Secretary implement a bypass if the agency, consortium, or entity is prohibited by law from providing equitable services under section 1117 or section 8501 of the ESEA.

§ 299.21 Notice of intent to implement a bypass.

(a) Before taking any final action to implement a bypass, the Secretary provides the affected agency, consortium, or entity with written notice.

(b) In the written notice, the Secretary—

(1) States the reasons for the proposed bypass in sufficient detail to allow the agency, consortium, or entity to respond;

(2) Cites the requirement that is the basis for the alleged failure to comply; and

(3) Advises the agency, consortium, or entity that it—

(i) Has a deadline (which must not be fewer than 45 days after receiving the written notice) to submit written objections to the proposed bypass; and

(ii) May request in writing the opportunity for a hearing to show cause why the Secretary should not implement the bypass.

§ 299.22 Filing requirements.

(a) Any written submission under § 299.21 must be filed by hand delivery, mail, or email.

(b) The filing date for a written submission is the date on which the document is—

(1) Hand delivered;

(2) Mailed; or

(3) Emailed.

§ 299.23 Bypass procedures.

Sections 299.24 through 299.26 describe the procedures that the Secretary uses in conducting a show-cause hearing. The hearing officer may modify the procedures for a particular case if all parties agree that the modification is appropriate.

§ 299.24 Appointment and functions of a hearing officer.

(a) If an agency, consortium, or entity requests a hearing to show cause why the Secretary should not implement a bypass, the Secretary appoints a hearing officer and notifies appropriate representatives of the affected private school children, teachers or other educational personnel, or families that they may participate in the hearing.

(b) The hearing officer has no authority to require or conduct discovery or to rule on the validity of any statute or regulation.

(c) The hearing officer notifies the agency, consortium, or entity and representatives of the private school children, teachers or other educational personnel, or families of the time and place of the hearing.

§ 299.25 Hearing procedures.

(a) The following procedures apply to a show-cause hearing regarding implementation of a bypass:

(1) The hearing officer arranges for a transcript to be created.

(2) The agency, consortium, or entity and representatives of the private school children, teachers or other educational personnel, or families each may—

(i) Be represented by legal counsel; and

(ii) Submit oral or written evidence and arguments at the hearing.

(b) Within 10 days after the hearing, the hearing officer—

(1) Indicates that a decision will be issued based on the existing record; or

(2) Requests further information from the agency, consortium, or entity, representatives of the private school children, teachers or other educational personnel, or families, or Department officials.

§ 299.26 Decision.

(a)(1) Within 120 days after the record of a show-cause hearing is closed, the hearing officer issues a written decision on whether the Secretary should implement a bypass.

(2) The hearing officer sends copies of the decision to the agency, consortium, or entity; representatives of the private school children, teachers or other educational personnel, or families; and the Secretary.

(b) Within 30 days after receiving the hearing officer's decision, the agency, consortium, or entity, and representatives of the private school children, teachers or other educational personnel, or families may each submit to the Secretary written comments on the decision.

(c) The Secretary may adopt, reverse, modify, or remand the hearing officer's decision.

§ 299.27 Judicial review.

If an agency, consortium, or entity is dissatisfied with the Secretary's final action after a proceeding under §§ 299.13 through 299.26, it may, within 60 days after receiving notice of that action, file a petition for review with the United States Court of Appeals for the circuit in which it is located.

§ 299.28 Continuation of a bypass.

The Secretary continues a bypass until the Secretary determines, in consultation with the relevant agency, consortium, or entity and representatives of the affected private school children, teachers or other educational personnel, or families, that there will no longer be any failure or inability on the part of the agency, consortium, or entity to meet the requirements for providing services.

[FR Doc. 2024–17239 Filed 8–28–24; 8:45 am]

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Part V

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska—2024–25 and 2025–26 Subsistence Taking of Wildlife Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2022–0105; FXFR13350700640–245–FF07J00000]

RIN 1018–BG72

Subsistence Management Regulations for Public Lands in Alaska—2024–25 and 2025–26 Subsistence Taking of Wildlife Regulations

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, and methods and means related to the taking of wildlife for subsistence uses in Alaska for the 2024–25 and 2025–26 regulatory years. The Federal Subsistence Board (Board) completes the biennial process of revising subsistence hunting and trapping regulations in even-numbered years and subsistence fishing and shellfish regulations in odd-numbered years; public proposal and review processes take place during the preceding year. The Board also addresses customary and traditional use determinations during the applicable biennial cycle. This rule also revises the customary and traditional use determinations for wildlife, the general regulations, and a deferred proposal from the last fish cycle.

DATES: This rule is effective August 29, 2024.

Information Collection Requirements: If you wish to comment on the information collection requirements in this rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after the date of publication of this rule in the **Federal Register**. Therefore, comments should be submitted to OMB by September 30, 2024.

ADDRESSES: The comments received on the proposed rule as well as the Board meeting transcripts are available at *https://www.regulations.gov* in Docket No. FWS–R7–SM–2022–0105. Board meeting transcripts are also available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management website (*https://www.doi.gov/subsistence*).

Information Collection Requirements: Written comments and suggestions on the information collection requirements should be submitted within 30 days of publication of this document to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803 (mail); or *Info_Coll@fws.gov* (email). Please reference OMB Control Number 1018–0075 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Crystal Lionetti, Director, Office of Subsistence Management; (907) 786–3888 or *subsistence@ios.doi.gov.* For questions specific to National Forest System lands, contact Gregory Risdahl, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 302–7354 or *gregory.risdahl@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. The Program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The term ''subsistence uses'' means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation or for other specified purposes. The Secretaries published temporary regulations to carry out the Program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940).

The Program managers have subsequently amended these regulations many times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): title 36, ''Parks, Forests, and Public Property,'' and title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. Consequently, to indicate that identical changes affect regulations in both titles 36 and 50, in this document we present references to specific sections of the CFR as shown in the following example: § ____.24.

The Program regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife. Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service (FWS);
- The Alaska Regional Director, National Park Service (NPS);
- The Alaska State Director, Bureau of Land Management (BLM);
- The Alaska Regional Director, Bureau of Indian Affairs (BIA);
- The Alaska Regional Forester, USDA Forest Service (USDA–FS); and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility, including determinations of which areas or communities in Alaska are nonrural, and specific harvest seasons and limits. The Board receives analytical and administrative assistance from the Interagency Staff Committee, which comprises senior technical experts from FWS, NPS, BLM, BIA, and USDA–FS (per § ____.10(d)(7)).

In administering the Program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (RAC). The RACs provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The RAC members represent varied geographical, cultural, and user interests within each region.

The Board conducts rulemaking for the Program on a biennial schedule with the process of revising the fish and shellfish regulations and the process for

revising the wildlife regulations occurring during opposite years. The Board addresses ''customary and traditional use'' determinations during the applicable biennial cycle. The regulations at § ____.4 define ''customary and traditional use'' as ''a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation.'' Since establishment of the Program regulations in 1992, the Board has made a number of customary and traditional use determinations at the request of affected subsistence users. These determinations have resulted in revisions to the regulations at § ____.24. Those modifications, along with some administrative corrections, were published in the **Federal Register** as follows:

TABLE 1—MODIFICATIONS TO § ____.24, CUSTOMARY AND TRADITIONAL USE DETERMINATIONS

Federal Register citation	Date of publication	Rule made changes to the following provisions of ____.24
59 FR 27462	May 27, 1994	Wildlife and Fish/Shellfish.
59 FR 51855	October 13, 1994	Wildlife and Fish/Shellfish.
60 FR 10317	February 24, 1995	Wildlife and Fish/Shellfish.
61 FR 39698	July 30, 1996	Wildlife and Fish/Shellfish.
62 FR 29016	May 29, 1997	Wildlife and Fish/Shellfish.
63 FR 35332	June 29, 1998	Wildlife and Fish/Shellfish.
63 FR 46148	August 28, 1998	Wildlife and Fish/Shellfish.
64 FR 1276	January 8, 1999	Fish/Shellfish.
66 FR 10142	February 13, 2001	Fish/Shellfish.
67 FR 5890	February 7, 2002	Fish/Shellfish.
68 FR 7276	February 12, 2003	Fish/Shellfish.
69 FR 5018	February 3, 2004	Fish/Shellfish.
70 FR 13377	March 21, 2005	Fish/Shellfish.
71 FR 15569	March 29, 2006	Fish/Shellfish.
72 FR 12676	March 16, 2007	Fish/Shellfish.
72 FR 73426	December 27, 2007	Wildlife/Fish.
74 FR 14049	March 30, 2009	Fish/Shellfish.
76 FR 12564	March 8, 2011	Fish/Shellfish.
77 FR 35482	June 13, 2012	Wildlife.
79 FR 35232	June 19, 2014	Wildlife.
81 FR 52528	August 8, 2016	Wildlife.
83 FR 3079	January 23, 2018	Fish.
83 FR 50758	October 9, 2018	Wildlife.
84 FR 39744	August 12, 2019	Fish.
85 FR 74796	November 23, 2020	Wildlife.
87 FR 44846	July 26, 2022	Wildlife.
89 FR 14746	February 29, 2024	Fish.

Current Rulemaking Action

The Departments published a proposed rule, Subsistence Management Regulations for Public Lands in Alaska—2024–25 and 2025–26 Subsistence Taking of Wildlife Regulations, on February 27, 2023 (88 FR 12285), to amend the regulations in subparts C and D of 36 CFR part 242 and 50 CFR part 100 for hunting and trapping seasons, harvest limits, and methods and means related to taking of wildlife for subsistence uses.

The proposed rule opened a comment period, which closed on April 12, 2023. The Departments advertised the proposed rule on the Program's web page and by mail, email, social media, radio, and newspaper. During that period, the RACs met and, in addition to other business, received suggestions for proposals from the public. The Board received a total of 40 proposals. Two of those proposals were withdrawn by the proponent. An additional two proposals were classified as invalid because they were administrative, as opposed to regulatory, in nature. The Board received 38 proposals for changes to the subparts C (for revisions to customary and traditional use determinations) and D regulations (which are specific provisions regarding the take of fish and wildlife). In addition, 18 wildlife closure reviews were presented for comment as required by Board policy, which specifies a review of each closure at least every 4 years. No closure reviews or proposals were deferred from previous fish or wildlife regulatory cycles.

The public submitted 38 comments, which are available for review at *https://www.regulations.gov* in Docket No. FWS–R7–SM–2022–0105. We reviewed and considered all public comments received on the proposed rule. Most of the comments were proposal submissions in response to the request for proposals outlined in the proposed rule. Most other comments reflected the same concerns or issues that were also included in those proposals that were presented to the Board and were, therefore, considered during Board deliberations on the proposals. The remaining public comments pertained to issues outside the scope of this rulemaking action.

After the comment period closed, the Board prepared a booklet describing the proposals and distributed it to the public. The proposals were also published on the Program's website. The public then had more than 30 days, until June 30, 2023, to comment on the proposed regulatory changes.

The 10 RACs met again, received public comments, and formulated their recommendations to the Board on proposals for their respective regions. Therefore, the public received extensive opportunity to review and comment on all changes.

The RACs had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a RAC Chair, or a designated representative, presented each RAC's recommendations at the Board's public meeting of April 2–5, 2024.

Summary of Board Actions on Proposals and Closure Reviews

The Board's actions on each wildlife proposal and closure review are listed in table 2 below. When making decisions, the Board may use, but is not limited to, the following guidelines for consideration of whether a proposal:

- provides a subsistence priority on public lands;
- is supported by substantial scientific and traditional ecological knowledge (TEK) evidence;
- recognizes principles of fish and wildlife conservation;
- provides opportunity; and
- would not be detrimental to or place undue burden on rural Alaskan subsistence users.

Consensus agenda: The consensus agenda is made up of proposals and closure reviews for which there is agreement among the affected RACs, a majority of the Interagency Staff Committee members, and the Alaska Department of Fish and Game (ADF&G) concerning a proposed regulatory action. Anyone may request that the Board remove a proposal or a closure review from the consensus agenda and place it on the non-consensus agenda. Proposals or closure reviews taken off the consensus agenda follow the Board process for non-consensus items and are deliberated and voted on individually. Of the 36 wildlife proposals and 18 wildlife closure reviews, 32 were on the Board's non-consensus agenda, and 22 were on the consensus agenda. The Board votes *en masse* on the consensus agenda after deliberation and action on all other proposals.

Of the proposals on the consensus agenda, the Board adopted six, adopted one with modification, rejected two, and took no action on one. Of the closure reviews on the consensus agenda, the Board retained the status quo on 10, and rescinded two. Analysis and justification for the action taken on each proposal on the consensus agenda can be found in the Board meeting book and transcripts. Documents are available for review at the Office of Subsistence Management (OSM), 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503; at *https://www.regulations.gov* in Docket No. FWS–R7–SM–2022–0105; or on the OSM website (*https://www.doi.gov/subsistence*).

Non-consensus agenda: Of the proposals on the non-consensus agenda, the Board adopted five, adopted 15 with modification, rejected one, deferred one and took no action on four. Of the closure reviews on the non-consensus agenda, the Board modified one, and retained the status quo on five. Because all Board actions on non-consensus proposals and closure reviews aligned with recommendations of the affected RAC(s), Board justifications for these actions can be found by reading the RAC recommendation(s) in the respective proposal analysis and reviewing the Board meeting transcripts. Documents are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503; at *https://www.regulations.gov* in Docket No. FWS–R7–SM–2022–0105; or on the OSM website (*https://www.doi.gov/subsistence*).

Request for Reconsideration: The Board received a request to reconsider their prior action on fisheries proposal FP21–10, which established a dipnet/rod and reel fishery on a portion of the Lower Copper River in the Prince William Sound Area. After full analysis, the request was rejected because it did not provide information not previously considered by the Board, did not demonstrate that existing information used by the Board was incorrect, and did not demonstrate that the Board's interpretation of information, applicable law, or regulation was in error or contrary to existing law.

TABLE 2—FEDERAL SUBSISTENCE BOARD ACTIONS ON PROPOSED REVISIONS TO THE REGULATIONS FOR THE FEDERAL SUBSISTENCE MANAGEMENT PROGRAM

[C&T = customary and traditional use]

Proposal No.	Species or issue	Unit(s)	General description	Federal Subsistence Board (FSB) action and basis for decision
WP24–01	Brown bear	Statewide	General regulations: Allow for sale of brown bear hides.	Deferred until 2024 FSB summer work session to gather more information and address options of applicability in areas with a 1-bear harvest limit.
WP24–02	Goat	1C	Portion of Unit 1C: Extend the season to Jul 24–Dec. 31.	Adopt. Provides a subsistence priority on public lands. Provides opportunity.
WP24–03	Goat	1C	Portion of Unit 1C: Extend the season to Aug. 1–Nov. 30; close the Aug. 1–31 season, except for take by federally qualified subsistence users.	Take no action. Based on action taken on WP24–02.
WP24–04	Deer	4	Close a portion of Admiralty Island Nov. 1–15, except for take by federally qualified subsistence users.	Adopt with Southeast RAC (SERAC) modification to reduce the closure area and the closure duration to Nov. 1–10. Provides a subsistence priority on public lands. Provides opportunity.
WP24–05	Deer	4	Close the Northeast Chichagof Controlled Use Area Nov. 1–15, except for take by federally qualified subsistence users.	Adopt with SERAC modification to reduce the closure area by removing Wildlife Analysis areas 4222 and 3526 and reduce closure duration to Nov. 1–10. Provides a subsistence priority on public lands. Provides opportunity.
WP24–06	Deer	4	Close a portion of Chichagof Island Nov. 1–15, except for take by federally qualified subsistence users.	Adopt with SERAC modification to reduce the closure duration to Nov. 1–10. Provides a subsistence priority on public lands. Provides opportunity.
WP24–07	Furbearers	7, 14C	Clarify Federal trapping regulations	Reject. Unnecessary regulations: municipality of Anchorage ordinances do not apply to Federal subsistence users.

TABLE 2—FEDERAL SUBSISTENCE BOARD ACTIONS ON PROPOSED REVISIONS TO THE REGULATIONS FOR THE FEDERAL SUBSISTENCE MANAGEMENT PROGRAM—Continued

[C&T = customary and traditional use]

Proposal No.	Species or issue	Unit(s)	General description	Federal Subsistence Board (FSB) action and basis for decision
WP24–08	All	7, 15	Establish hunting and trapping setbacks from wildlife crossing structures along the Sterling Highway.	Adopt. Recognizes principles of fish and wildlife conservation.
WP24–09	Caribou	13A, 13B	Modify harvest limit; delegate authority to manage the hunt.	Adopt. Recognizes principles of fish and wildlife conservation.
WCR24–03	Moose	7	That portion of Unit 7 draining into Kings Bay: Closed, except by residents of Chenega and Tatitlek.	Maintain status quo. Recognizes principles of fish and wildlife conservation. Provides a subsistence priority on public lands.
WCR24–41	Moose	6	Unit 6C: Closed Nov. 1–Dec. 31, except for take by federally qualified subsistence users.	Rescind the closure. Recognizes principles of fish and wildlife conservation. Would not be detrimental to or place undue burden on rural Alaskan subsistence users.
WP24–10	Brown bear	8	Eliminate State locking tag requirement	Adopt. Would not be detrimental to or place undue burden on rural Alaska subsistence users.
WP24–11	Deer	8	Remove antlerless restriction	Adopt with Kodiak Aleutians RAC modification to retain the antlerless restriction and increase the harvest limit to four deer. Provides opportunity.
WCR24–04	Caribou	9C	Unit 9C, remainder: Closed, except by residents of Unit 9C and Egegik.	Maintain status quo. Provides a subsistence priority on public lands.
WCR24–06	Caribou	9E	Unit 9E: Closed, except by residents of Unit 9C, Nelson Lagoon, and Sand Point.	Maintain status quo. Provides a subsistence priority on public lands.
WP24–12	Moose	9B	Extend fall season by 5 days to Sept. 25	Adopt with modification to also extend the season by 5 days at the beginning. Provides a subsistence priority on public lands. Provides opportunity.
WP24–13	Moose	9B	Extend fall season by 5 days to Sept. 25	Take no action. Based on action taken on WP24–12.
WP24–14	Moose	9B	Extend fall season by 5 days to Sept. 25	Take no action. Based on action taken on WP24–12.
WP24–15	Caribou	9C	Establish hunt in Katmai National Preserve; close Federal public lands except by residents of Igiugig.	Adopt with OSM modification to establish a may-be-announced season, close Katmai National Preserve except to residents of Igiugig and Kokhanok, and delegate authority to the Katmai National Park and Preserve Superintendent to announce the annual harvest quota, announce and open/close a season, determine the number of permits issued annually, set sex restrictions, and set permit conditions via delegation of authority letter only. Provides a subsistence priority on public lands. Provides opportunity.
WP24—(no number assigned).	Moose, deer	6	Rescind the delegation of authority letter (DAL).	Invalid.
WP24–16	Caribou	9E	Add residents of Unit 9C to the communities eligible to harvest (ANILCA section 804 restriction).	Adopt. Provides opportunity.
WP24–17	Caribou	9E	Add King Salmon, Naknek, and South Naknek to the communities eligible to harvest (ANILCA section 804 restriction).	Take no action. Based on action taken on WP24–16.
WP24–18	Caribou	17A, 17C	Expand hunt area for the Nushagak Peninsula caribou herd.	Adopt with modification to further expand the hunt area and modify the DAL to reflect the new hunt area boundary and delegate additional authority to ''set harvest areas.'' Provides opportunity.
WP24—(no number assigned).	Caribou	17	Modify the DAL for the Nushagak Peninsula caribou herd.	Invalid.
WP24–19	Moose	18	Extend season in a portion of Unit 18 by 15 days to Oct. 15.	Adopt with OSM modification to modify the hunt area descriptor. Provides opportunity.
WP24–20	Moose	18	Modify the harvest limit, permit requirements, and DAL for the winter season in a portion of Unit 18.	Adopt. Provides opportunity.

TABLE 2—FEDERAL SUBSISTENCE BOARD ACTIONS ON PROPOSED REVISIONS TO THE REGULATIONS FOR THE FEDERAL SUBSISTENCE MANAGEMENT PROGRAM—Continued

[C&T = customary and traditional use]

Proposal No.	Species or issue	Unit(s)	General description	Federal Subsistence Board (FSB) action and basis for decision
WP24–21	Moose	18	Add Konigiganak, Kwigillingok, and Quinhagak to the communities eligible to harvest in a portion of Unit 18 (ANILCA section 804 restriction).	Adopt with Yukon–Kuskokwim Delta RAC modification to also add Kipnuk to the communities eligible to harvest in a portion of Unit 18 (ANILCA section 804 restriction). Provides opportunity.
WP24–22	Musk ox	18	Recognize C&T by residents of Unit 18	Adopt. Provides a subsistence priority on public lands.
WP24–23	Musk ox	18	Establish hunt on the mainland portion of Unit 18.	Reject. Recognizes principles of fish and wildlife conservation.
WCR24–38	Moose	18	A portion of Unit 18: Closed except by residents of Tuntutuliak, Eek, Napakiak, Napaskiak, Kasigluk, Nunapitchuk, Atmaulauk, Oscarville, Bethel, Kwethluk, Akiakchak, Akiak, Tuluksak Lower Kalskag, and Kalskag.	Maintain status quo. Provides opportunity. Provides a subsistence priority on public lands.
WP24–24	n/a	19A	Divide into two subunits	Adopt with OSM modification to clarify regulatory language. Would not be detrimental to or place undue burden on rural Alaskan subsistence users.
WP24–25	Sheep	24A, 24B	Reduce harvest limit within Gates of the Arctic National Park.	Adopt. Recognizes principles of fish and wildlife conservation.
WP24–26	Sheep	24A, 26B	Unit 24A and portion of Unit 26B: Closed to all users for 2 years.	Adopt. Recognizes principles of fish and wildlife conservation.
WCR24–20	Moose	24	Kanuti Controlled Use Area: Closed, except for take by federally qualified subsistence users.	Modify the closure as recommended by OSM to eliminate the closure during the winter season (Dec. 15–Apr. 15) and clarify regulatory language. Maintain meaningful subsistence priority. Would not be detrimental to or place undue burden on rural Alaskan subsistence users.
WCR24–43	Moose	19	Unit 19A, remainder: Closed, except by residents of Tuluksak, Lower Kalskag, Upper Kalskag, Aniak, Chuathbaluk, and Crooked Creek.	Maintain status quo. Recognizes principles of fish and wildlife conservation. Provides a subsistence priority on public lands.
WP24–27	Musk ox	22, 23	Change permit system to Federal drawing permits; standardize DALs.	Adopt. Would not be detrimental to or place undue burden on rural Alaskan subsistence users.
WCR24–10	Musk ox	22B	Unit 22B: Closed, except for take by federally qualified subsistence users.	Maintain status quo. Provides a subsistence priority on public lands.
WCR24–15	Moose	22D	Unit 22D, remainder: Closed, except for take by federally qualified subsistence users.	Maintain status quo. Provides a subsistence priority on public lands.
WCR24–28	Musk ox	22D	Unit 22D, that portion west of the Tisuk River drainage and Canyon Creek: Closed, except by residents of Nome and Teller.	Maintain status quo. Provides a subsistence priority on public lands.
WCR24–29	Musk ox	22D	Unit 22D, remainder: Closed, except by residents of Elim, White Mountain, Nome, Teller, and Brevig Mission.	Maintain status quo. Provides a subsistence priority on public lands.
WCR24–30	Musk ox	22E	Unit 22E: Closed, except for take by federally qualified subsistence users.	Maintain status quo. Provides a subsistence priority on public lands.
WCR24–44	Musk ox	22D	Unit 22D within the Kuzitrin River drainage: Closed, except by residents of Council, Golovin, White Mountain, Nome, Teller, and Brevig Mission.	Maintain status quo. Provides a subsistence priority on public lands.
WP24–28	Caribou	21D, 22, 23, 24, 26A	Reduce harvest limit to four caribou/year; only one may be a cow.	Adopt with Western Interior RAC (WIRAC, Seward Peninsula RAC (SPRAC), Northwest Arctic RAC (NWARAC), and North Slope RAC (NSRAC) modification to exclude the eastern portion of Unit 26A and reduce the harvest limit to 15 caribou/year, only 1 may be a cow. Provides opportunity. Recognizes principles of fish and wildlife conservation.

TABLE 2—FEDERAL SUBSISTENCE BOARD ACTIONS ON PROPOSED REVISIONS TO THE REGULATIONS FOR THE FEDERAL SUBSISTENCE MANAGEMENT PROGRAM—Continued

[C&T = customary and traditional use]

Proposal No.	Species or issue	Unit(s)	General description	Federal Subsistence Board (FSB) action and basis for decision
WP24–29	Caribou	23	Reduce harvest limit to four caribou/year; only one may be a cow.	Adopt with WIRAC, SPRAC, NWARAC, and NSRAC modification to exclude the eastern portion of Unit 26A and reduce the harvest limit to 15 caribou/year, only 1 may be a cow. Provides opportunity. Recognizes principles of fish and wildlife conservation.
WP24–30	Caribou	23	Close Federal public lands Aug. 1–Oct. 31, except for take by federally qualified subsistence users.	Adopt with OSM modification to include a population threshold removing the closure when the Western Arctic caribou herd population exceeds 200,000 caribou. Provides a subsistence priority on public lands.
WP24–31	Caribou	23	Close Federal public lands Aug. 1–Oct. 31, except for take by federally qualified subsistence users.	Adopt with OSM modification to include a population threshold removing the closure when the Western Arctic caribou herd population exceeds 200,000 caribou. Provides a subsistence priority on public lands.
WCR24–19	Musk ox	23	Unit 23, south of Kotzebue Sound and west of and including the Buckland River drainage: Closed, except for take by federally qualified subsistence users.	Rescind the closure. Provides opportunity. Would not be detrimental to or place undue burden on rural Alaskan subsistence users.
WP24–32	Marten	12, 19, 20, 21, 24, 25	Extend trapping season by 15 days to Mar. 15.	Adopt with Eastern Interior RAC modification to extend the season only in Units 20E and 25B. Provides a subsistence priority on public lands. Provides opportunity.
WP24–33	Moose	25B, 25C, 25D remainder.	Extend season closing date to Oct. 15	Adopt. Provides a subsistence priority on public lands. Provides opportunity.
WP24–34	Moose	25D West	Withdrawn	N/A (withdrawn).
WP24–35	Moose	25D West	Withdrawn	N/A (withdrawn).
WP24–36	Sheep	25A	Rescind C&T for Kaktovik	Reject. Provides opportunity.
WCR24–21	Sheep	25	Arctic Village Sheep Management Area: Closed, except for take by federally qualified subsistence users.	Maintain status quo. Provides a subsistence priority on public lands.
WCR24–35	Caribou	12	Southeastern portion of Unit 12: Closed, except for take by federally qualified subsistence users.	Maintain status quo. Recognizes principles of fish and wildlife conservation. Provides a subsistence priority on public lands.
WCR24–42	Caribou	12	Southwestern portion of Unit 12: Closed to all users.	Maintain status quo. Recognizes principles of fish and wildlife conservation.
WP24–37	Musk ox	26C	Change season to ''may be announced'' Nov. 1–Mar. 31; delegate authority to the Arctic National Wildlife Refuge (NWR) manager to manage the hunt; and remove regulatory language.	Take no action. Based on action taken on WP24–38.
WP24–38	Musk ox	26C	Change season to ''may be announced''; liberalize the harvest limit; delegate authority to the Arctic NWR manager to manage the hunt; and remove regulatory language.	Adopt with OSM modification to delegate additional authority to the Arctic NWR manager to set sex restriction via a DAL only. Provides a subsistence priority on public lands. Provides opportunity.
WCR24–31	Moose	26B, 26C	Units 26B, remainder, and 26C: Closed, except by residents of Kaktovik.	Maintain status quo. Provides a subsistence priority on public lands.
RFR22–01	Salmon	Prince William Sound Area.	Reconsideration of FP21–10 establishing a dipnet and rod and reel fishery.	Oppose. Provides a subsistence priority in public waters.

The final regulations in this document reflect Board review and consideration of RAC recommendations, Tribal and Alaska Native corporation consultations, and public and ADF&G comments. The proposals indicated above in table 2 as ''adopted'' are reflected in the rule portion of this document as revisions to the Program

regulations. Minor edits and spelling corrections have also been made to these final regulations. Because this rule concerns public lands managed by a bureau or bureaus in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple RAC meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change (36 CFR 242.20 and 50 CFR 100.20). Therefore, the Board believes that sufficient public notice and opportunity for involvement have been given to affected persons regarding Board decisions.

In the more than 30 years that the Program has been operating, no benefit to the public has been demonstrated by delaying the effective date of the subsistence regulations. A lapse in regulatory control could affect the continued viability of fish or wildlife populations and future subsistence opportunities for rural Alaskans and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(d)(3) to make this rule effective upon the date set forth in **DATES** to ensure continued operation of the subsistence program.

National Environmental Policy Act Compliance

A draft environmental impact statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The final environmental impact statement (FEIS) was published on February 28, 1992. The record of decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act of 1995 (PRA)

This rule contains existing and new information collections. All information collections require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*). We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB has reviewed and approved the information collection requirements associated with subsistence management regulations on public lands in Alaska and assigned the OMB Control Number 1018–0075.

In accordance with the PRA and its implementing regulations at 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on our proposal to renew, with revisions, OMB Control Number 1018–0075. This input will help us assess the impact of our information collection requirements and minimize the public's reporting burden, and it will help the public understand these requirements and provide the requested data in the desired format.

We request OMB approval to renew the existing reporting and/or recordkeeping requirements identified below:

(1) *Form 3–2326,* ''*Federal Subsistence Hunt Application, Permit, and Report*''—Completed by federally qualified subsistence users who want to harvest wildlife.

- Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

- Question 1 identifies whether the applicant hunted or used a designated hunter.
- Questions 2a through 2e identify success rates by time, location, and take of animal.
- Question 3 identifies date of take and biological data of animal.

(2) *Form 3–2327,* ''*Designated Hunter Application, Permit, and Report*''—Completed by federally qualified subsistence users who want to harvest wildlife for other federally qualified subsistence users.

- Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

- Applicants provide a list of names of other persons they hunted for, their harvest ticket/registration permit, and their community to ensure they are federally qualified subsistence users.
- Remaining information provides harvest data such as unit, drainage or specific location, and number, by sex, of animals taken.

(3) *Form 3–2328,* ''*Federal Subsistence Fishing Application, Permit, and Report*''—Completed by federally qualified subsistence users who want to harvest fish.

- Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

• Remaining information identifies dates, locations, types of gear, fish species, and number of fish harvested for biological and anthropological analysis.

• Depending on in-season management requirements, a condition may be included for certain fisheries that requires a time-specific reporting requirement. This management tool is used only when conservation concerns exist that may require the emergency closure of the fishery to prevent overharvest.

• Must be completed and returned by date designated on permit.

(4) *Form 3–2378, ''Designated Fishing Application, Permit, and Report''*—Completed by federally qualified subsistence users who want to harvest fish for other federally qualified subsistence users. Federally qualified subsistence users may designate another federally qualified subsistence user to take fish on their behalf. The designated subsistence user must obtain a designated harvest permit prior to attempting to harvest fish and must return a completed harvest report. The designated subsistence user may fish for any number of beneficiaries but may have no more than two harvest limits in their possession at any one time. Subsistence users may not designate more than one person to take or attempt to take fish on their behalf at one time. Subsistence users may not personally take or attempt to take fish at the same time that their designated subsistence user is taking or attempting to take fish on their behalf.

• Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

• Applicants identify both for whom they fished and their subsistence permit number. The permit number verifies they are federally qualified users and tracks usage by communities.

• Remaining information tracks species taken, number retained, and gear for biological and anthropological analysis.

(5) *Form 3–2379, ''Federal Subsistence Customary Trade Recordkeeping Form''*—Completed by federally qualified subsistence users who want to take part in customary trade. Staff anthropologists use the information to make customary and traditional use determinations and to write an analysis based on the provisions in section 804 of ANILCA. These analyses further reduce the pool of eligible subsistence users and may allocate harvests by community, in part, based on documented uses of the resource.

• Applicants provide information on the permit to identify:

(1) They are a federally qualified subsistence user;

(2) Their community of primary residence for community harvest allocations; and

(3) The unit, season, hunt number, and permit number.

• Remaining information tracks date of sales, buyers, and buyers' addresses, total dollar amount, species taken, and fish parts.

(6) *Petition to Repeal Subsistence Rules and Regulations (Nonform Requirement)*—If the State of Alaska enacts and implements laws that are consistent with sections 803, 804, and 805 of ANILCA, the State may submit a petition to the Secretary of the Interior for repeal of Federal subsistence rules. The State's petition shall:

(1) Be submitted to the Secretary of the Interior and the Secretary of Agriculture;

(2) Include the entire text of applicable State legislation indicating compliance with sections 803, 804, and 805 of ANILCA; and

(3) Set forth all data and arguments available to the State in support of legislative compliance with sections 803, 804, and 805 of ANILCA.

If the Secretaries find that the State's petition contains adequate justification, a rulemaking proceeding for repeal of the regulations in this part will be initiated. If the Secretaries find that the State's petition does not contain adequate justification, the petition will be denied by letter or other notice, with a statement of the grounds for denial.

(7) *Propose Changes to Federal Subsistence Regulations*—The Board will accept proposals for changes to the Federal subsistence regulations in subparts C or D of 356 CFR part 242 or 50 CFR part 100 according to a published schedule, except for proposals for emergency and temporary special actions, which the Board will accept according to procedures set forth in § ____.19. Members of the public may propose changes to the subsistence regulations by providing:

• Contact information (name, organization, address, phone number, fax number, email address).

• Type of change (harvest season, harvest limit, method and means of harvest, customary and traditional use determination).

• Regulation to be changed.

• Language for proposed regulation.

• Why the change should be made.

• Impact on populations.

• How the change will affect subsistence uses.

• How the change will affect other uses.

• Communities that have used the resource.

• Where the resource has been harvested.

• Months in which the resource has been harvested.

(8) *Proposals for Emergency or Temporary Special Actions*—A special action is an out-of-cycle change in a season, harvest limit, or method of harvest. The Federal Subsistence Board may take a special action to restrict, close, open, or reopen the taking of fish and wildlife on Federal public lands: (1) to ensure the continued viability of a particular fish or wildlife population; (2) to ensure continued subsistence use; and (3) for reasons of public safety or administration. Members of the public may request a special action by providing:

• Contact information (name, organization, address, telephone number, fax number, email address).

• Description of the requested action.

• Any unusual or significant changes in resource abundance or unusual conditions affecting harvest opportunities that could not reasonably have been anticipated and that potentially could have significant adverse effects on the health of fish and wildlife populations or subsistence users.

• The necessity of the requested action if required for reasons of public safety or administration.

• Extenuating circumstances that necessitate a regulatory change before the next regulatory review.

(9) *Requests for Reconsideration*—Any person adversely affected by a new regulation may request that the Federal Subsistence Board reconsider its decision by filing a written request within 60 days after a regulation takes effect or is published in the **Federal Register**, whichever comes first. Requests for reconsideration must provide the Board with sufficient narrative evidence and argument to show why the action by the Board should be reconsidered. The Board will accept a request for reconsideration only if it is based upon information not previously considered by the Board, demonstrates that the existing

information used by the Board is incorrect, or demonstrates that the Board's interpretation of information, applicable law, or regulation is in error or contrary to existing law. Requests for reconsideration must include:

- Contact information (name, organization, address, telephone number, fax number, email address).
- Regulation and the date of **Federal Register** publication.
- Statement of how the person is adversely affected by the action.
- Statement of the issues raised by the action, with specific reference to: (1) information not previously considered by the Board; (2) information used by the Board that is incorrect; and (3) how the Board's interpretation of information, applicable law, or regulation is in error or contrary to existing law.

(10) *Other Permits and Reports*

a. Traditional/Cultural/Educational Permits—Organizations desiring to harvest fish or wildlife for traditional, cultural, or educational reasons must provide a letter stating that the requesting program has instructors, enrolled students, minimum attendance requirements, and standards for successful completion. Harvest must be reported, and any animals harvested will count against any established Federal harvest quota for the area in which it is harvested.

b. Fishwheel, Fyke Net, and Under Ice Permits—Persons who want to set up and operate fishwheels and fyke nets, or use a net under the ice must provide:

(1) Name and contact information and other household member who will use the equipment. Fishwheels must be marked with registration permit number; organization's name and address (if applicable), and primary contact person name and telephone number; under ice nets must be marked with the permittee's name and address.

(2) Species of fish taken, number of fish taken, and dates of use.

The new reporting and/or recordkeeping requirements identified below require approval by OMB:

(1) *Reports and Recommendations*—Subsistence Regional Advisory Councils are required to send an annual report to the Federal Subsistence Board informing them of regional concerns or problems pertaining to subsistence on Federal public lands. In turn, the Board is required to respond to each of the Councils' annual reports and address their concerns and possible courses of actions or solutions.

(2) *Customary Trade Sales*—The Board manages each region differently regarding customary trade, based primarily on cultural beliefs and traditional practices. As needed, decisions also include conservation concerns. This requirement is in place to monitor customary trade and ensure that subsistence resources are for subsistence users and not commercial trade.

(3) *Transfer of Subsistence-Caught Fish, Wildlife, or Shellfish*—This reporting requirement safeguards the harvester and individual who receives the harvested animal. It protects both parties to show that an illegal commercial enterprise is not ongoing or that the animal was not poached.

(4) *Meeting Request*—The Board shall meet at least twice per year and at such other times as deemed necessary. Meetings shall occur at the call of the Chair, but any member may request a meeting. There is no specified format to request a meeting. Usually, the Service recommends to the Board that they have a meeting on a special topic, such as pending litigation. This is not a common occurrence.

(5) *Cooperative Agreements*—The Board may enter into cooperative agreements or otherwise cooperate with Federal agencies, the State, Native organizations, local governmental entities, and other persons and organizations, including international entities to effectuate the purposes and policies of the Federal subsistence management program or to coordinate respective management responsibilities. Currently, cooperative agreements are not generally used, and we are reporting a placeholder burden of one response.

(6) *Alternative Permitting Processes*—Developing alternative permitting processes relating to the subsistence taking of fish and wildlife ensures continued opportunities for subsistence. Currently, this requirement is not generally used, and we are reporting a placeholder burden of one response in our burden estimate.

(7) *Request for Individual Customary and Traditional Use Determinations*—The Federal Subsistence Board has determined that rural Alaska residents of the listed communities, areas, and individuals have customary and traditional use of the specified species on Federal public land in the specified areas. Persons granted individual customary and traditional use determinations will be notified in writing by the Board. The Service and the local NPS Superintendent will maintain the list of individuals having customary and traditional use on National Parks and Monuments. A copy of the list is available upon request. Currently, this requirement is not generally used, and we are reporting a placeholder burden of one response in our burden estimate.

(8) *Management Plans*—Management plans are not routinely used. When created by the State or Alaska Native communities for overall management of a specific area, the plans are submitted to the appropriate Federal agencies for review/comment. Currently, this requirement is not generally used, and we are reporting a placeholder burden of one response in our burden estimate.

(9) *Labeling/Marking Requirements*—

- *Bear baiting*—The requirement to mark bear baiting stations and provide contact information is for public safety since attempting to draw bears into a certain area could cause a significant hazard for the public not involved in hunting activities. Requirements to register a bait station with the State is to provide a single location for the public to find information of possible hazards prior to using public lands.
- *Evidence of sex and identity*—In certain areas and with certain species of both wildlife and fish, evidence of sex and identity are required for biological purposes and the data is used for future management decisions. This information is critical to assist in assessing the health of a population, the male/female ratios, ages of harvested animals, identifying different genetic populations, and other important factors needed for sound management decisions.
- *Marking of fish gear*—The marking of various fishing gear types (fishwheels, crab pots, certain types of nets or their supporting buoys, stakes, etc.) with contact information is based on the fact that these gear types are generally unattended while catching fish. This information is used to differentiate between users harvesting under Federal or State regulations and also to protect the owners of the gear should it be damaged or carried away. The contact information can be used to return the often-expensive gear to the proper owner. Requirements as to the location of the contact information on the gear types is to ease the task of field managers so they can, if needed, identify gear from a boat and not have to land to search for the contact information. In marine waters, the information is used by the U.S. Coast Guard for safety in navigation concerns. The above reasons also hold true regarding registering a fishwheel with the State or the Federal program.
- *Marking of subsistence-caught fish*—Requirements in certain areas to mark subsistence-caught fish by removal of the tips of the tail or dorsal fin is used to identify fish harvested under Federal regulations and not under State sport or

commercial regulations. This is needed as Federal subsistence harvest limits are often larger than sport fishing bag limits and protects the user from possible citations from State law enforcement.

• *Sealing requirements*—Sealing requirements for animals, primarily bears and wolves, differ in parts of the State. This requirement not only allows biologists to gather important data to evaluate the health of the various populations but is also integral in preventing the illegal harvest and trafficking of animals and their parts. reporting a placeholder burden of one response in our burden estimate.

(10) *3rd Party Notifications (Tags, Marks, or Collar Notification and Return)*—Users must present the tags, markings, or collars to ADF&G, or the agency conducting the research. Much of this equipment may be used again, and the information regarding the take of the animal is important to management decisions.

Copies of the forms used with this information collection are available to the public by submitting a request to the Service Information Collection Clearance Officer using one of the methods identified in **ADDRESSES**.

Title of Collection: Federal Subsistence Regulations and Associated Forms, 50 CFR part 100 and 36 CFR part 242.

OMB Control Number: 1018–0075.

Form Numbers: Forms 3–2300, 3–2321 through 3–2323, 3–2326 through 3–2328, 3–2378, and 3–2379.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals and State, local, and Tribal governments. Most respondents are individuals who are federally defined rural residents in Alaska.

Total Estimated Number of Annual Respondents: 15,426.

Total Estimated Number of Annual Responses: 15,426.

Estimated Completion Time per Response: Varies from 5 minutes to 40 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 6,947.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion for applications; annually or on occasion for reports, recordkeeping, and labeling/marking requirements.

Total Estimated Annual Non-hour Burden Cost: None.

On February 27, 2023, we published proposed regulations (RIN 1018–BG72; 88 FR 12285) to announce our intention to request OMB approval of the revisions to this collection explained in question 2 and the simultaneous renewal of OMB Control No. 1018–0075. In that proposed rule, we solicited comments for 60 days on the information collections in this submission, ending on April 28, 2023. We did not receive any comments in response to the information collections contained in the proposed rule.

As part of our continuing effort to reduce paperwork and respondent burdens, and in accordance with 5 CFR 1320.8(d)(1), we invite the public and other Federal agencies to comment on any aspect of this information collection, including:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this rulemaking are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Send your written comments and suggestions on this information collection by the date indicated in **DATES** to OMB, with a copy to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–0075 in the subject line of your comments.

Regulatory Planning and Review (Executive Orders 12866, 13563, and 14094)

Executive Order 14094 reaffirms the principles of E.O. 12866 and E.O. 13563 and states that regulatory analysis should facilitate agency efforts to develop regulations that serve the public interest, advance statutory objectives, and are consistent with E.O. 12866 and E.O. 13563. Regulatory analysis, as practicable and appropriate, shall recognize distributive impacts and equity, to the extent permitted by law. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

E.O. 12866, as reaffirmed by E.O. 13563 and E.O. 14094, provides that the Office of Information and Regulatory Affairs (OIRA) in OMB will review all significant rules. OIRA has determined that this rule is not significant.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability

of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or Tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

Title VIII of ANILCA does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Board provided federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation: commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

On April 2, 2024, the Board provided federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule prior to the start of its public regulatory meeting. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend via teleconference.

Executive Order 13211

This Executive order requires agencies to prepare statements of energy effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no statement of energy effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Amee Howard of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Chris McKee, Alaska State Office, Bureau of Land Management;
- Kim Jochum, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Jill Klein, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Gregory Risdahl, Alaska Regional Office, USDA Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Federal Subsistence Board amends title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

PART ____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. Amend ____.24 by revising table 1 to paragraph (a)(1) to read as follows:

§ ____.24 Customary and traditional use determinations.

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Area	Species	Determination
Unit 1	Black bear	Residents of Units 1–5.
Unit 1	Brown bear	Residents of Units 1–5.
Unit 1	Deer	Residents of Units 1–5.
Unit 1	Goat	Residents of Units 1–5.
Unit 1	Moose	Residents of Units 1–5.
Unit 2	Black bear	Residents of Units 1–5.
Unit 2	Deer	Residents of Units 1–5.
Unit 3	Black bear	Residents of Units 1–5.
Unit 3	Brown bear	Residents of Units 1–5.
Unit 3	Deer	Residents of Units 1–5.
Unit 3	Elk	Residents of Units 1–5.
Unit 3	Moose	Residents of Units 1–5.
Unit 4	Brown bear	Residents of Units 1–5.
Unit 4	Deer	Residents of Units 1–5.
Unit 4	Goat	Residents of Units 1–5.

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Area	Species	Determination
Unit 5	Black bear	Residents of Units 1–5.
Unit 5	Brown bear	Residents of Units 1–5.
Unit 5	Deer	Residents of Units 1–5.
Unit 5	Goat	Residents of Units 1–5.
Unit 5	Moose	Residents of Unit 5A.
Unit 5	Wolf	Residents of Unit 5A.
Unit 6A	Black bear	Residents of Yakutat and Units 6C and 6D, excluding residents of Whittier.
Unit 6, remainder	Black bear	Residents of Units 6C and 6D, excluding residents of Whittier.
Unit 6	Brown bear	No Federal subsistence priority.
Unit 6A	Goat	Residents of Units 5A, 6C, Chenega Bay, and Tatitlek.
Unit 6C and Unit 6D	Goat	Residents of Units 6C and 6D.
Unit 6A	Moose	Residents of Units 5A, 6A, 6B, and 6C.
Unit 6B and Unit 6C	Moose	Residents of Units 6A, 6B, and 6C.
Unit 6D	Moose	Residents of Unit 6D.
Unit 6A	Wolf	Residents of Units 5A, 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 6, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 7	Brown bear	No Federal subsistence priority.
Unit 7	Caribou	Residents of Cooper Landing, Hope, and Moose Pass.
Unit 7, Brown Mountain hunt area	Goat	Residents of Port Graham and Nanwalek.
Unit 7, remainder	Goat	Residents of Chenega Bay, Cooper Landing, Hope, Moose Pass, Nanwalek, Ninilchik, Port Graham, Seldovia, and Tatilek.
Unit 7	Moose	Residents of Chenega Bay, Cooper Landing, Hope, Moose Pass, and Tatitlek.
Unit 7	Sheep	Residents of Cooper Landing and Moose Pass.
Unit 7	Ruffed grouse	No Federal subsistence priority.
Unit 8	Brown bear	Residents of Old Harbor, Akhiok, Larsen Bay, Karluk, Ouzinkie, and Port Lions.
Unit 8	Deer	Residents of Unit 8.
Unit 8	Elk	Residents of Unit 8.
Unit 8	Goat	No Federal subsistence priority.
Unit 9D	Bison	No Federal subsistence priority.
Unit 9A and Unit 9B	Black bear	Residents of Units 9A, 9B, 17A, 17B, and 17C.
Unit 9A	Brown bear	Residents of Pedro Bay.
Unit 9B	Brown bear	Residents of Unit 9B.
Unit 9C	Brown bear	Residents of Unit 9C, Igiugig, Kakhonak, and Levelock.
Unit 9D	Brown bear	Residents of Units 9D and 10 (Unimak Island).
Unit 9E	Brown bear	Residents of Chignik, Chignik Lagoon, Chignik Lake, Egegik, Ivanof Bay, Perryville, Pilot Point, Ugashik, and Port Heiden/Meshik.
Unit 9A and Unit 9B	Caribou	Residents of Units 9B, 9C, and 17.
Unit 9C	Caribou	Residents of Units 9B, 9C, 17, and Egegik.
Unit 9D	Caribou	Residents of Unit 9D, Akutan, and False Pass.
Unit 9E	Caribou	Residents of Units 9B, 9C, 9E, 17, Nelson Lagoon, and Sand Point.
Unit 9A, Unit 9B, Unit 9C, and Unit 9E	Moose	Residents of Units 9A, 9B, 9C, and 9E.
Unit 9D	Moose	Residents of Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point.
Unit 9D	Ptarmigan	Residents of Unit 9D.
Unit 9B	Sheep	Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and Lake Clark National Park and Preserve within Unit 9B.
Unit 9	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 9A, Unit 9B, Unit 9C, and Unit 9E	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 10 Unimak Island	Brown bear	Residents of Units 9D and 10 (Unimak Island).
Unit 10 Unimak Island	Caribou	Residents of Akutan, Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point.
Unit 10, remainder	Caribou	No Federal subsistence priority.
Unit 10	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 11	Bison	No Federal subsistence priority.

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Area	Species	Determination
Unit 11, north of the Sanford River	Black bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
Unit 11, remainder	Black bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Nabesna Road (mileposts 25–46), Slana, Tazlina, Tok Cutoff Road (mileposts 79–110), Tonsina, and Unit 11.
Unit 11, north of the Sanford River	Brown bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Units 11 and 12.
Unit 11, remainder	Brown bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Nabesna Road (mileposts 25–46), Slana, Tazlina, Tok Cutoff Road (mileposts 79–110), Tonsina, and Unit 11.
Unit 11, north of the Sanford River	Caribou	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
Unit 11, remainder	Caribou	Residents of Units 11, 13A–D, and Chickaloon.
Unit 11	Goat	Residents of Unit 11, Chitina, Chistochina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, Tazlina, Tonsina, and Dot Lake, Tok Cutoff Road (mileposts 79–110 Mentasta Pass), and Nabesna Road (mileposts 25–46).
Unit 11, north of the Sanford River	Moose	Residents of Units 11, 12, 13A–D, Chickaloon, Healy Lake, and Dot Lake.
Unit 11, remainder	Moose	Residents of Units 11, 13A–D, and Chickaloon.
Unit 11, north of the Sanford River	Sheep	Residents of Unit 12, Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Healy Lake, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina, Tonsina, residents along the Nabesna Road—mileposts 0–46 (Nabesna Road), and residents along the McCarthy Road—mileposts 0–62 (McCarthy Road).
Unit 11, remainder	Sheep	Residents of Chisana, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina, Tonsina, residents along the Tok Cutoff—mileposts 79–110 (Mentasta Pass), residents along the Nabesna Road—mileposts 0–46 (Nabesna Road), and residents along the McCarthy Road—mileposts 0–62 (McCarthy Road).
Unit 11	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 11	Grouse (spruce, blue, ruffed, and sharp-tailed).	Residents of Units 11, 12, 13, and Chickaloon, 15, 16, 20D, 22, and 23.
Unit 11	Ptarmigan (rock, willow, and white-tailed).	Residents of Units 11, 12, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 12	Brown bear	Residents of Unit 12, Dot Lake, Chistochina, Gakona, Mentasta Lake, and Slana.
Unit 12	Caribou	Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
Unit 12, that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake.	Moose	Residents of Units 12 and 13C, Dot Lake, and Healy Lake.
Unit 12, that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border.	Moose	Residents of Units 12 and 13C and Healy Lake.
Unit 12, remainder	Moose	Residents of Unit 11 north of 62nd parallel, Units 12 and 13A–D, Chickaloon, Dot Lake, and Healy Lake.
Unit 12	Sheep	Residents of Unit 12, Chistochina, Dot Lake, Healy Lake, Mentasta Lake, and Slana.

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Area	Species	Determination
Unit 12	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 13	Brown bear	Residents of Unit 13 and Slana.
Unit 13B	Caribou	Residents of Units 11, 12 (along the Nabesna Road and Tok Cutoff Road, mileposts 79–110), 13, 20D (excluding residents of Fort Greely), and Chickaloon.
Unit 13C	Caribou	Residents of Units 11, 12 (along the Nabesna Road and Tok Cutoff Road, mileposts 79–110), 13, Chickaloon, Dot Lake, and Healy Lake.
Unit 13A and Unit 13D	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and Chickaloon.
Unit 13E	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, Chickaloon, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239 (excluding residents of Denali National Park headquarters).
Unit 13D	Goat	No Federal subsistence priority.
Unit 13A and Unit 13D	Moose	Residents of Unit 13, Chickaloon, and Slana.
Unit 13B	Moose	Residents of Units 13 and 20D (excluding residents of Fort Greely) and Chickaloon and Slana.
Unit 13C	Moose	Residents of Units 12 and 13, Chickaloon, Healy Lake, Dot Lake, and Slana.
Unit 13E	Moose	Residents of Unit 13, Chickaloon, McKinley Village, Slana, and the area along the Parks Highway between mileposts 216 and 239 (excluding residents of Denali National Park headquarters).
Unit 13D	Sheep	No Federal subsistence priority.
Unit 13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 13	Grouse (spruce, blue, ruffed, and sharp-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 13	Ptarmigan (rock, willow, and white-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 14C	Brown bear	No Federal subsistence priority.
Unit 14	Goat	No Federal subsistence priority.
Unit 14	Moose	No Federal subsistence priority.
Unit 14A and Unit 14C	Sheep	No Federal subsistence priority.
Unit 15A and Unit 15B	Black bear	Residents of Ninilchik.
Unit 15C	Black bear	Residents of Ninilchik, Port Graham, and Nanwalek.
Unit 15	Brown bear	Residents of Ninilchik.
Unit 15B	Caribou	Residents of Cooper Landing, Hope, Nanwalek, Ninilchik, Moose Pass, Port Graham, and Seldovia.
Unit 15C	Caribou	Residents of Cooper Landing, Hope, Nanwalek, Ninilchik, Port Graham, and Seldovia.
Unit 15A and Unit 15B	Goat	Residents of Cooper Landing, Hope, Moose Pass, Nanwalek, Ninilchik, Port Graham, and Seldovia.
Unit 15C	Goat	Residents of Cooper Landing, Hope, Nanwalek, Ninilchik, Port Graham, and Seldovia.
Unit 15A and Unit 15B	Moose	Residents of Cooper Landing, Ninilchik, Moose Pass, Nanwalek, Port Graham, and Seldovia.
Unit 15C	Moose	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
Unit 15A and Unit 15B	Sheep	Residents of Cooper Landing and Ninilchik.
Unit 15C	Sheep	Residents of Ninilchik.
Unit 15	Ptarmigan (rock, willow, and white-tailed).	Residents of Unit 15.
Unit 15	Grouse (spruce)	Residents of Unit 15.
Unit 15	Grouse (ruffed)	No Federal subsistence priority.
Unit 16B	Black bear	Residents of Unit 16B.
Unit 16	Brown bear	No Federal subsistence priority.
Unit 16A	Moose	No Federal subsistence priority.
Unit 16B	Moose	Residents of Unit 16B.
Unit 16	Sheep	No Federal subsistence priority.
Unit 16	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 16	Grouse (spruce and ruffed)	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Area	Species	Determination
Unit 16	Ptarmigan (rock, willow, and white-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 17	Beaver	Residents of Units 9A, 9B, 9C, 9E, and 17.
Unit 17A and that portion of 17B draining into Nuyakuk Lake and Tikchik Lake.	Black bear	Residents of Units 9A and B, 17, Akiak, and Akiachak.
Unit 17, remainder	Black bear	Residents of Units 9A and B, and 17.
Unit 17A, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast towards the northern point of Nuyakuk Lake to the Unit 17A boundary.	Brown bear	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, Kwethluk, and Platinum.
Unit 17B, beginning at the Unit 17B boundary, those portions north and west of a line running from the southern point of upper Togiak Lake, northeast to the northern point of Nuyakuk Lake, and northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Brown bear	Residents of Unit 17 and Kwethluk.
Unit 17A, remainder	Brown bear	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, and Platinum.
Unit 17B, that portion draining into Nuyakuk Lake and Tikchik Lake.	Brown bear	Residents of Unit 17, Akiak, and Akiachak.
Unit 17B, remainder, and Unit 17C	Brown bear	Residents of Unit 17.
Unit 17A, that portion west of the Izavieknik River, Upper Togiak Lake, Togiak Lake, and the main course of the Togiak River.	Caribou	Residents of Units 9B, 17, Eek, Goodnews Bay, Lime Village, Napakiak, Platinum, Quinhagak, Stony River, and Tuntutuliak.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Caribou	Residents of Units 9B, 17, Akiak, Akiachak, Lime Village, Stony River, and Tuluksak.
Units 17A and 17B, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Caribou	Residents of Units 9B, 17, Kwethluk, Lime Village, and Stony River.
Unit 17B, that portion of Togiak National Wildlife Refuge within Unit 17B.	Caribou	Residents of Units 9B, 17, Akiachak, Akiak, Bethel, Eek, Goodnews Bay, Lime Village, Napakiak, Platinum, Quinhagak, Stony River, Tuluksak, and Tuntutuliak.
Unit 17, remainder	Caribou	Residents of Units 9B, 9C, 9E, 17, Lime Village, and Stony River.
Unit 17A, those portions north and west of a line beginning from the Unit 18 boundary at the northwestern end of Nenevok Lake, to the southern point of upper Togiak Lake, and to the Unit 17A boundary to the northeast towards the northern point of Nuyakuk Lake and northeast towards the northern point of Nuyakuk Lake to the Unit 17A boundary.	Moose	Residents of Unit 17, Goodnews Bay, Kwethluk, and Platinum.
Unit 17A, that portion north of Togiak Lake that includes Izavieknik River drainages.	Moose	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, and Platinum.
Unit 17A, remainder	Moose	Residents of Unit 17, Goodnews Bay, and Platinum.
Units 17B, beginning at the Unit 17B boundary, those portions north and west of a line running from the southern point of upper Togiak Lake, northeast to the northern point of Nuyakuk Lake, and northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Moose	Residents of Unit 17, Akiak, Akiachak, Goodnews Bay, Levelock, Nondalton, and Platinum.
Unit 17B, that portion within the Togiak National Wildlife Refuge.	Moose	Residents of Unit 17, Akiak, Akiachak, Goodnews Baym, Levelock, Nondalton, and Platinum.
Unit 17B, remainder and Unit 17C	Moose	Residents of Unit 17, Nondalton, Levelock, Goodnews Bay, and Platinum.
Unit 17	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 18	Black bear	Residents of Unit 18, Unit 19A living downstream of the Holokuk River, Holy Cross, Stebbins, St. Michael, Twin Hills, and Togiak.
Unit 18	Brown bear	Residents of Akiachak, Akiak, Eek, Goodnews Bay, Kwethluk, Mountain Village, Napaskiak, Platinum, Quinhagak, St. Marys, and Tuluksak.

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Area	Species	Determination
Unit 18	Caribou	Residents of Unit 18, Lower Kalskag, Manokotak, Stebbins, St. Michael, Togiak, Twin Hills, and Upper Kalskag.
Unit 18, that portion of the Yukon River drainage upstream of Russian Mission and that portion of the Kuskokwim River drainage upstream of, but not including, the Tuluksak River drainage.	Moose	Residents of Unit 18, Upper Kalskag, Lower Kalskag, Aniak, and Chuathbaluk.
Unit 18, that portion north of a line from Cape Romanzof to Kusilvak Mountain to Mountain Village, and all drainages north of the Yukon River downstream from Marshall.	Moose	Residents of Unit 18, Lower Kalskag, St. Michael, Stebbins, and Upper Kalskag.
Unit 18, remainder	Moose	Residents of Unit 18, Lower Kalskag, and Upper Kalskag.
Unit 18, Nelson Island and Nunivak Island	Musk ox	No Federal subsistence priority.
Unit 18, remainder	Musk ox	Rural residents of Unit 18.
Unit 18	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 19C and Unit 19D	Bison	No Federal subsistence priority.
Unit 19A, Unit 19B, and Unit 19E	Brown bear	Residents of Units 18 and 19 within the Kuskokwim River drainage upstream from, and including, the Johnson River.
Unit 19C	Brown bear	No Federal subsistence priority.
Unit 19D	Brown bear	Residents of Units 19A, 19D, and 19E Tuluksak, and Lower Kalskag.
Unit 19A, Unit 19B, and Unit 19E	Caribou	Residents of Units 19A, 19B, and 19E, and Unit 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River, and residents of St. Marys, Marshall, Pilot Station, and Russian Mission.
Unit 19C	Caribou	Residents of Unit 19C, Lime Village, McGrath, Nikolai, and Telida.
Unit 19D	Caribou	Residents of Unit 19D, Lime Village, Sleetmute, and Stony River.
Unit 19A, Unit 19B, Unit 19E	Moose	Residents of Unit 18 within Kuskokwim River drainage upstream from and including the Johnson River, and residents of Unit 19.
Unit 19B, west of the Kogrukluk River	Moose	Residents of Eek and Quinhagak.
Unit 19C	Moose	Residents of Unit 19.
Unit 19D	Moose	Residents of Unit 19 and Lake Minchumina.
Unit 19	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 20D	Bison	No Federal subsistence priority.
Unit 20F	Black bear	Residents of Unit 20F, Stevens Village, and Manley Hot Springs.
Unit 20E	Brown bear	Residents of Unit 12 and Dot Lake.
Unit 20F	Brown bear	Residents of Unit 20F, Stevens Village, and Manley Hot Springs.
Unit 20A	Caribou	Residents of Cantwell, Nenana, and those domiciled between mileposts 216 and 239 of the Parks Highway, excluding residents of households of the Denali National Park Headquarters.
Unit 20B	Caribou	Residents of Unit 20B, Nenana, and Tanana.
Unit 20C	Caribou	Residents of Unit 20C living east of the Teklanika River, residents of Cantwell, Lake Minchumina, Manley Hot Springs, Minto, Nenana, Nikolai, Tanana, Telida, and those domiciled between mileposts 216 and 239 of the Parks Highway and between mileposts 300 and 309, excluding residents of households of the Denali National Park Headquarters.
Unit 20D and Unit 20E	Caribou	Residents of Units 20D, 20E, 20F, 25, 12 (north of the Wrangell-St. Elias National Park and Preserve), Eureka, Livengood, Manley, and Minto.
Unit 20F	Caribou	Residents of Units 20F and 25D and Manley Hot Springs.
Unit 20A	Moose	Residents of Cantwell, Minto, Nenana, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239, excluding residents of households of the Denali National Park Headquarters.
Unit 20B, Minto Flats Management Area	Moose	Residents of Minto and Nenana.
Unit 20B, remainder	Moose	Residents of Unit 20B, Nenana, and Tanana.

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Area	Species	Determination
Unit 20C	Moose	Residents of Unit 20C (except that portion within Denali National Park and Preserve and that portion east of the Teklanika River), Cantwell, Manley Hot Springs, Minto, Nenana, those domiciled between mileposts 300 and 309 of the Parks Highway, Nikolai, Tanana, Telida, McKinley Village, and the area along the Parks Highway between mileposts 216 and 239, excluding residents of households of the Denali National Park Headquarters.
Unit 20D	Moose	Residents of Unit 20D and Tanacross.
Unit 20E	Moose	Residents of Unit 20E, Unit 12 north of the Wrangell-St. Elias National Preserve, Circle, Central, Dot Lake, Healy Lake, and Mentasta Lake.
Unit 20F	Moose	Residents of Unit 20F, Manley Hot Springs, Minto, and Stevens Village.
Unit 20E	Sheep	Residents of Units 20E, 25B, 25C, 25D, and Dot Lake, Healy Lake, Northway, Tanacross, Tetlin, and Tok.
Unit 20F	Wolf	Residents of Unit 20F, Stevens Village, and Manley Hot Springs.
Unit 20, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 20D	Grouse, (spruce, ruffed, and sharp-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 20D	Ptarmigan (rock and willow)	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 21	Brown bear	Residents of Units 21 and 23.
Unit 21A	Caribou	Residents of Units 21A, 21D, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
Unit 21B and Unit 21C	Caribou	Residents of Units 21B, 21C, 21D, and Tanana.
Unit 21D	Caribou	Residents of Units 21B, 21C, 21D, and Huslia.
Unit 21E	Caribou	Residents of Units 21A, 21E, Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
Unit 21A	Moose	Residents of Units 21A, 21E, Takotna, McGrath, Aniak, and Crooked Creek.
Unit 21B and Unit 21C	Moose	Residents of Units 21B, 21C, Tanana, Ruby, and Galena.
Unit 21D	Moose	Residents of Units 21D, Huslia, and Ruby.
Unit 21E, south of a line beginning at the western boundary of Unit 21E near the mouth of Paimiut Slough, extending easterly along the south bank of Paimiut Slough to Upper High Bank, and southeasterly in the direction of Molybdenum Mountain to the juncture of Units 19A, 21A, and 21E.	Moose	Residents of Unit 21E, Aniak, Chuathbaluk, Kalskag, Lower Kalskag, and Russian Mission.
Unit 21E remainder	Moose	Residents of Unit 21E and Russian Mission.
Unit 21	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 22A	Black bear	Residents of Unit 22A and Koyuk.
Unit 22B	Black bear	Residents of Unit 22B.
Unit 22C, Unit 22D, and Unit 22E	Black bear	No Federal subsistence priority.
Unit 22	Brown bear	Residents of Unit 22.
Unit 22A	Caribou	Residents of Units 21D west of the Koyukuk and Yukon Rivers, 22 (except residents of St. Lawrence Island), 23, 24, Kotlik, Emmonak, Hooper Bay, Scammon Bay, Chevak, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Marys, Nunam Iqua, and Alakanuk.
Unit 22, remainder	Caribou	Residents of Units 21D west of the Koyukuk and Yukon Rivers, 22 (excluding residents of St. Lawrence Island), 23, and 24.
Unit 22	Moose	Residents of Unit 22.
Unit 22A	Musk ox	All rural residents.
Unit 22B, west of the Darby Mountains	Musk ox	Residents of Units 22B and 22C.
Unit 22B, remainder	Musk ox	Residents of Unit 22B.
Unit 22C	Musk ox	Residents of Unit 22C.
Unit 22D	Musk ox	Residents of Units 22B, 22C, 22D, and 22E (excluding St. Lawrence Island).

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Area	Species	Determination
Unit 22E	Musk ox	Residents of Unit 22E (excluding Little Diomede Island).
Unit 22	Wolf	Residents of Units 23, 22, 21D north and west of the Yukon River, and Kotlik.
Unit 22	Grouse (spruce)	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 22	Ptarmigan (rock and willow)	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 23	Black bear	Residents of Unit 23, Alatna, Allakaket, Bettles, Evansville, Galena, Hughes, Huslia, and Koyukuk.
Unit 23	Brown bear	Residents of Units 21 and 23.
Unit 23	Caribou	Residents of Units 21D west of the Koyukuk and Yukon Rivers, Galena, 22, 23, 24, including residents of Wiseman but not including other residents of the Dalton Highway Corridor Management Area, and 26A.
Unit 23	Moose	Residents of Unit 23.
Unit 23, south of Kotzebue Sound and west of and including the Buckland River drainage.	Musk ox	Residents of Unit 23 south of Kotzebue Sound and west of and including the Buckland River drainage.
Unit 23, remainder	Musk ox	Residents of Unit 23 east and north of the Buckland River drainage.
Unit 23	Sheep	Residents of Point Lay and Unit 23 north of the Arctic Circle.
Unit 23	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 23	Grouse (spruce and ruffed)	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 23	Ptarmigan (rock, willow, and white-tailed).	Residents of Units 11, 13, Chickaloon, 15, 16, 20D, 22, and 23.
Unit 24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Black bear	Residents of Stevens Village, Unit 24, and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
Unit 24, remainder	Black bear	Residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
Unit 24, that portion south of Caribou Mountain, and within the public lands composing or immediately adjacent to the Dalton Highway Corridor Management Area.	Brown bear	Residents of Stevens Village and Unit 24.
Unit 24, remainder	Brown bear	Residents of Unit 24.
Unit 24	Caribou	Residents of Unit 24, Galena, Kobuk, Koyukuk, Stevens Village, and Tanana.
Unit 24	Moose	Residents of Unit 24, Koyukuk, and Galena.
Unit 24	Sheep	Residents of Unit 24 residing north of the Arctic Circle, Allakaket, Alatna, Hughes, and Huslia.
Unit 24	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.
Unit 25D	Black bear	Residents of Unit 25D.
Unit 25D	Brown bear	Residents of Unit 25D.
Unit 25, remainder	Brown bear	Residents of Unit 25 and Eagle.
Unit 25A	Caribou	Residents of Units 24A and 25.
Unit 25B and Unit 25C	Caribou	Residents of Units 12 (north of Wrangell-St. Elias National Preserve), 20D, 20E, 20F, and 25, and Eureka, Livengood, Manley, and Minto.
Unit 25D	Caribou	Residents of Units 20F and 25D and Manley Hot Springs.
Unit 25A	Moose	Residents of Units 25A and 25D.
Unit 25B and Unit 25C	Moose	Residents of Units 20D, 20E, 25B, 25C, 25D, Tok and Livengood.
Unit 25D, west	Moose	Residents of Unit 25D West and Birch Creek.
Unit 25D, remainder	Moose	Residents of remainder of Unit 25.
Unit 25A	Sheep	Residents of Arctic Village, Chalkyitsik, Fort Yukon, Kaktovik, and Venetie.
Unit 25B and Unit 25C	Sheep	Residents of Units 20E, 25B, 25C, and 25D.
Unit 25D	Wolf	Residents of Unit 25D.
Unit 25, remainder	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.

TABLE 1 TO PARAGRAPH (a)(1)—Continued

Area	Species	Determination
Unit 26	Brown bear	Residents of Unit 26 (excluding the Prudhoe Bay-Deadhorse Industrial Complex), Anaktuvuk Pass, and Point Hope.
Unit 26A and C	Caribou	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
Unit 26B	Caribou	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Unit 24 within the Dalton Highway Corridor Management Area.
Unit 26	Moose	Residents of Unit 26 (excluding the Prudhoe Bay-Deadhorse Industrial Complex), Point Hope, and Anaktuvuk Pass.
Unit 26A	Musk ox	Residents of Anaktuvuk Pass, Atqasuk, Barrow, Nuiqsut, Point Hope, Point Lay, and Wainwright.
Unit 26B	Musk ox	Residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik.
Unit 26C	Musk ox	Residents of Kaktovik.
Unit 26A	Sheep	Residents of Unit 26, Anaktuvuk Pass, and Point Hope.
Unit 26B	Sheep	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Wiseman.
Unit 26C	Sheep	Residents of Unit 26, Anaktuvuk Pass, Arctic Village, Chalkyitsik, Fort Yukon, Point Hope, and Venetie.
Unit 26	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13, Chickaloon, and 16–26.

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Subpart D—Subsistence Taking of Fish and Wildlife

■ 3. Amend § ____.26 by revising paragraph (n) to read as follows:

§ 100.26 Subsistence taking of wildlife.

* * * * *

(n) *Unit regulations.* You may take for subsistence unclassified wildlife, all squirrel species, and marmots in all Units, without harvest limits, for the period of July 1–June 30. Unit-specific restrictions or allowances for subsistence taking of wildlife are identified at paragraphs (n)(1) through (26) of this section.

(1) *Unit 1.* Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point, and all islands in Stephens Passage and Lynn Canal north of Taku Inlet:

(i) Unit 1A consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal, excluding all drainages of Ernest Sound.

(ii) Unit 1B consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound, and Seward Passage.

(iii) Unit 1C consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock including Berners Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, excluding drainages into Farragut Bay.

(iv) Unit 1D consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay.

(v) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses.

(B) Unit 1A—in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bear.

(C) Unit 1B—the Anan Creek drainage within 1 mile of Anan Creek downstream from the mouth of Anan Lake, including the area within a 1-mile radius from the mouth of Anan Creek Lagoon, is closed to the taking of bear.

(D) Unit 1C:

(*1*) You may not hunt within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area; and

(*2*) You may not take mountain goat in the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier.

(vi) You may not trap furbearers for subsistence uses in Unit 1C, Juneau area, on the following public lands:

(A) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(C) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area; and

(D) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail.

(vii) Unit-specific regulations:

(A) You may hunt black bear with bait in Units 1A, 1B, and 1D between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

TABLE 1 TO PARAGRAPH (n)(1)

Harvest limits	Open season
Hunting	
Bear, black: 2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Bear, brown: 1 bear every 4 regulatory years by State registration permit only	Sep. 15–Dec. 31. Mar. 15–May 31.
Deer:	
Unit 1A—4 antlered deer	Aug. 1–Dec. 31.
Unit 1B—2 antlered deer	Aug. 1–Dec. 31.
Unit 1C—4 deer; however, female deer may be taken only Sep. 15–Dec. 31	Aug. 1–Dec. 31.
Elk: 1 elk by Federal registration permit Successful hunters must send a photo of their elk antlers to ADF&G and a 5-inch section of the lower jaw with front teeth.	July 1–June 30.
Goat:	
Unit 1A, Revillagigedo Island only	No open season.
Unit 1B, that portion north of LeConte Bay—1 goat by State registration permit only; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1A and Unit 1B, that portion on the Cleveland Peninsula south of the divide between Yes Bay and Santa Anna Inlet.	No open season.
Unit 1A and Unit 1B, remainder—2 goats; a State registration permit will be required for the taking of the first goat and a Federal registration permit for the taking of a second goat. The taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1C, drainages of the Chilkat Range south of the south bank of the Endicott River—1 goat by State registration permit only.	July 24–Dec. 31.
Unit 1C, that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River—1 goat by State registration permit only.	Oct. 1–Nov. 30.
Unit 1C, that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier.	No open season.
Unit 1C, remainder—1 goat by State registration permit only	Aug. 1–Nov. 30.
Unit 1D, that portion lying north of the Katzehin River and northeast of the Haines highway—1 goat by State registration permit only.	Sep. 15–Nov. 30.
Unit 1D, that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad	No open season.
Unit 1D, remainder—1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 1A—1 antlered bull by Federal registration permit	Sep. 5–Oct. 15.
Unit 1B—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on one side, or antlers with 2 brow tines on both sides, by State registration permit only.	Sep. 15–Oct. 15.
Unit 1C, that portion south of Point Hobart including all Port Houghton drainages—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on one side, or antlers with 2 brow tines on both sides, by State registration permit only.	Sep. 15–Oct. 15.
Unit 1C, remainder, excluding drainages of Berners Bay—1 bull by State registration permit only	Sep. 15–Oct. 15.
Unit 1C, Berners Bay—1 bull by drawing permit Only one moose permit may be issued per household. A household receiving a State permit for Berners Bay drainages moose may not receive a Federal permit. The annual harvest quota will be announced by the USDA Forest Service, Juneau office, in consultation with ADF&G. The Federal harvest allocation will be 25% (rounded up to the next whole number) of bull moose permits.	Sep.15–Oct. 15 (will be announced).
Unit 1D	No open season.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases): 2 foxes	Nov. 1–Feb. 15.
Hare, snowshoe: 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf:	
Units 1A and 1B, south of Bradfield Canal and the east fork of the Bradfield River—5 wolves	Aug. 1–May 31.
Units 1B, remainder, 1C, and 1D—5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (spruce, blue, and ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: Unit 1—No limit	Nov. 10–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, red (including cross, black, and silver phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.

TABLE 1 TO PARAGRAPH (n)(1)—Continued

Harvest limits	Open season
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 10–Mar. 1.

(2) *Unit 2.* Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the westernmost point on Warren Island.

(i) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

(ii) [Reserved]

TABLE 2 TO PARAGRAPH (n)(2)

Harvest limits	Open season
Hunting	
Bear, black: 2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Deer:	
5 deer; however, no more than one may be a female deer. Female deer may be taken only during the period Oct. 15–Jan. 31. Harvest ticket number five must be used when recording the harvest of a female deer but may be used for recording the harvest of a male deer. Harvest tickets must be used in order except when recording a female deer on tag number five.	July 24–Jan. 31.
The Federal public lands on Prince of Wales Island, excluding the southeastern portion (lands south of the West Arm of Cholmondeley Sound draining into Cholmondeley Sound or draining eastward into Clarence Strait), are closed to hunting of deer Aug. 1–15, except by federally qualified subsistence users hunting under these regulations.	
Non-federally qualified users may only harvest up to 2 male deer on Federal public lands in Unit 2	
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Elk: 1 elk by Federal registration permit	Jul 1–Jun 30.
Successful hunters must send a photo of their elk antlers to ADF&G and a 5-inch section of the lower jaw with front teeth.	
Fox, red (including cross, black, and silver phases): 2 foxes	Nov. 1–Feb. 15.
Hare, snowshoe: 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: No limit. All wolves taken will be sequentially numbered, marked with the date and location recorded by the hunter for each wolf, and all hides must be sealed within 15 days of take.	Sep. 1–Mar. 31.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (spruce and ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Nov. 10–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, red (including cross, black, and silver phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit. All wolves taken will be sequentially numbered, marked with the date and location recorded by the trapper for each wolf, and all hides must be sealed within 15 days of take.	Nov. 15–Mar. 31.
Wolverine: No limit	Nov. 10–Mar. 1.

(3) *Unit 3.* (i) Unit 3 consists of all islands west of Unit 1B, north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevaroff, Woronkofski, Etolin, Wrangell, and Deer Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Petersburg vicinity, you may not take ungulates, bear, wolves, and wolverine along a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground.

(B) You may not take black bears in the Petersburg Creek drainage on Kupreanof Island.

(C) You may not hunt in the Blind Slough draining into Wrangell Narrows and a strip one-fourth-mile wide on

each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers 1 mile south of the Blind Slough bridge.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

TABLE 3 TO PARAGRAPH (n)(3)

Harvest limits	Open season
Hunting	
Bear, black: 2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Deer:	
Unit 3, Mitkof, Woewodski, and Butterworth Islands and that portion of Kupreanof Island on the Lindenberg Peninsula east of the Portage Bay-Duncan Canal Portage—1 buck.	Oct. 1–Nov. 7.
Unit 3, remainder—2 bucks	Aug. 1–Nov. 30. Dec. 1–31, season to be announced.
Elk:	
Unit 3, Etolin Island Area, Zarembo, Bushy, Shrubby, and Kashevarof Islands	No open season.
Unit 3 remainder—1 elk by Federal registration permit Successful hunters must send a photo of their elk antlers to ADF&G and a 5-inch section of the lower jaw with front teeth.	July 1–June 30.
Moose: 1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler, or antlers with 2 brow tines on both sides by State registration permit only.	Sep. 1–Oct. 15.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases): 2 foxes	Nov. 1–Feb. 15.
Hare, snowshoe: 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–May 31.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (spruce, blue, and ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver:	
Unit 3, Mitkof Island—No limit	Nov. 10–May 15.
Unit 3, except Mitkof Island—No limit	Nov. 10–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, red (including cross, black, and silver phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten:	
No limit (except on Kuiu Island)	Dec. 1–Feb. 15.
Kuiu Island portion of Unit 3. No limit	Dec. 1–31.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 10–Mar. 1.

(4) *Unit 4.* (i) Unit 4 consists of all islands south and west of Unit 1C and north of Unit 3 including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take brown bears in the Seymour Canal Closed Area (Admiralty Island) including all drainages into northwestern Seymour Canal between Staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay including Swan and Windfall Islands.

(B) You may not take brown bears in the Salt Lake Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay.

(C) You may not take brown bears in the Port Althorp Closed Area (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock).

(D) You may not use any motorized land vehicle for brown bear hunting in the Northeast Chichagof Controlled Use Area (NECCUA) consisting of all portions of Unit 4 on Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwestern point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay.

(iii) Unit-specific regulations:

(A) You may shoot ungulates from a boat. You may not shoot bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(B) Five Federal registration permits will be issued by the Sitka or Hoonah District Ranger for the taking of brown bear for educational purposes associated with teaching customary and traditional subsistence harvest and use practices. Any bear taken under an educational permit does not count in an individual's one bear every 4 regulatory years limit.

(C) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(D) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

TABLE 4 TO PARAGRAPH (n)(4)

Harvest limits	Open season
Hunting	
Bear, brown:	
Unit 4, Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N lat., 136° 21′ W long.) to Rodgers Point (57° 35′ N lat., 135° 33′ W long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line that follows the crest of the island from Nismeni Point (57° 34′ N lat., 135° 25′ W long.) to the entrance of Gut Bay (56° 44′ N lat. 134° 38′ W long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every 4 regulatory years by State registration permit only.	Sep. 15–Dec. 31. Mar. 15–May 31.
Unit 4, remainder—1 bear every 4 regulatory years by State registration permit only	Sep. 15–Dec. 31. Mar. 15–May 20.
Deer:	
6 deer; however, female deer may be taken only Sep. 15–Jan. 31	Aug. 1–Jan. 31.
Federal public lands on Admiralty Island and islands in the interior bays of Admiralty Island draining into Chatham Strait south of the Thayer Creek drainage and north of Woody Point but excluding the Hasselborg Lake and Hasselborg Creek drainages are closed to deer hunting Nov. 1–10, except by federally qualified subsistence users hunting under these regulations.	
Federal public lands on Chichagof Island draining into Icy Strait east of Chicken Creek drainage, including Port Frederick drainages; and Chatham Strait drainages south of Point Augusta and north of East Point, including Freshwater Bay drainages are closed to deer hunting Nov. 1–10, except by federally qualified subsistence users hunting under these regulations.	
Federal public lands within drainages flowing into Lisianski Inlet, Lisianski Strait, and Stag Bay south of a line connecting Soapstone and Column points and north of a line connecting Point Theodore and Point Urey are closed to deer hunting Nov. 1–10, except by federally qualified subsistence users hunting under these regulations.	
Elk: 1 elk by Federal registration permit	July 1–June 30.
Successful hunters must send a photo of their elk antlers to ADF&G and a 5-inch section of the lower jaw with front teeth.	
Goat: 1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases): 2 foxes	Nov. 1–Feb. 15.
Hare, snowshoe: 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (spruce, blue, and ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Nov. 10–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, red (including cross, black, and silver phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Mar. 1.

(5) *Unit 5.* (i) Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills:

(A) Unit 5A consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays; In Unit 5A, Nunatak Bench is defined as that area east of the Hubbard Glacier, north of Nunatak fiord, and north and east of the East Nunatak Glacier to the Canadian border.

(B) Unit 5B consists of the remainder of Unit 5.

(ii) You may not take wildlife for subsistence uses on public lands within Glacier Bay National Park.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not shoot ungulates, bear, wolves, or wolverine from a boat, unless you are certified as disabled.

(C) You may hunt brown bear in Unit 5 with a Federal registration permit in lieu of a State metal locking tag if you have obtained a Federal registration permit prior to hunting.

(D) Coyotes taken incidentally with a trap or snare during an open Federal trapping season for wolf, wolverine, or beaver may be legally retained.

(E) A firearm may be used to take beaver under a trapping license during an open beaver season, except on National Park Service lands.

TABLE 5 TO PARAGRAPH (n)(5)

Harvest limits	Open season
Hunting	
Bear, black: 2 bears, no more than one may be a blue or glacier bear	Sep. 1–June 30.
Bear, brown: 1 bear by Federal registration permit only	Sep. 1–May 31.
Deer:	
Unit 5A—1 buck	Nov. 1–30.
Unit 5B	No open season.
Goat:	
Unit 5A—that area between the Hubbard Glacier and the West Nunatak Glacier on the north and east sides of Nunatak Fjord.	No open season.
Unit 5A, remainder—1 goat by Federal registration permit only	Aug. 1–Jan. 31.
Unit 5B—1 goat by Federal registration permit only	Aug. 1–Jan. 31.
Moose:	
Unit 5A, Nunatak Bench—1 moose by State registration permit only. The season will be closed when 5 moose have been taken from the Nunatak Bench.	Nov. 15–Feb. 15.
Unit 5A, except Nunatak Bench, west of the Dangerous River—1 bull by joint State/Federal registration permit only. From Oct. 8–21, public lands will be closed to taking of moose, except by residents of Unit 5A hunting under these regulations.	Oct. 8–Nov. 15.
Unit 5A, except Nunatak Bench, east of the Dangerous River—1 bull by joint State/Federal registration permit only. From Sep. 16–30, public lands will be closed to taking of moose, except by residents of Unit 5A hunting under these regulations.	Sep. 16–Nov. 15.
Unit 5B—1 bull by State registration permit only. The season will be closed when 25 bulls have been taken from the entirety of Unit 5B.	Sep. 1–Dec. 15.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, red (including cross, black and silver phases): 2 foxes	Nov. 1–Feb. 15.
Hare, snowshoe: 5 hares per day	Sep. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (spruce and ruffed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Nov. 10–May 15.
Coyote: No limit	Nov. 10–Feb. 15.
Fox, red (including cross, black and silver phases): No limit	Nov. 10–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Nov. 10–Feb. 15.
Mink and Weasel: No limit	Nov. 10–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Nov. 10–Feb. 15.
Wolf: No limit	Nov. 10–Apr. 30.
Wolverine: No limit	Nov. 10–Mar. 1.

(6) *Unit 6.* (i) Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages:

(A) Unit 6A consists of Gulf of Alaska drainages east of Palm Point near Katalla including Kanak, Wingham, and Kayak Islands.

(B) Unit 6B consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point.

(C) Unit 6C consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet.

(D) Unit 6D consists of the remainder of Unit 6.

(ii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15. In addition, you may use bait in Unit 6D between June 16 and June 30. The harvest quota in Unit 6D is 20 bears taken with bait between June 16 and June 30.

(B) You may take coyotes in Units 6B and 6C with the aid of artificial lights.

(C) One permit will be issued by the Cordova District Ranger to the Native Village of Eyak to take one moose from Federal lands in Unit 6B or 6C for their annual Memorial/Sobriety Day potlatch.

(D) A federally qualified subsistence user (recipient) who is either blind, 65 years of age or older, at least 70 percent disabled, or temporarily disabled may designate another federally qualified subsistence user to take any moose, deer, black bear, and beaver on his or her behalf in Unit 6 and goat in Unit 6D. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no

more than one harvest limit in his or her possession at any one time.

(E) A hunter younger than 10 years old at the start of the hunt may not be issued a Federal subsistence permit to harvest black bear, deer, goat, moose, wolf, and wolverine.

(F) A hunter younger than 10 years old may harvest black bear, deer, goat, moose, wolf, and wolverine under the direct, immediate supervision of a licensed adult, at least 18 years old. The animal taken is counted against the adult's harvest limit. The adult is responsible for ensuring that all legal requirements are met.

(G) Up to five permits will be issued by the Cordova District Ranger to the Native Village of Chenega annually to harvest up to five deer total from Federal public lands in Unit 6D for their annual Old Chenega Memorial and other traditional memorial potlatch ceremonies. Permits will have effective dates of July 1–June 30.

(H) Up to five permits will be issued by the Cordova District Ranger to the Tatitlek IRA Council annually to harvest up to five deer total from Federal public lands in Unit 6D for their annual Cultural Heritage Week. Permits will have effective dates of July 1–June 30.

TABLE 6 TO PARAGRAPH (n)(6)

Harvest limits	Open season
Hunting	
Bear, black: 1 bear. In Unit 6D, a State registration permit is required	Sep. 1–June 30.
Deer:	
5 deer; however, antlerless deer may be taken only from Oct. 1–Jan. 31. Only 1 of the 5-deer harvest limit may be taken between Jan. 1–31.	Aug. 1–Jan. 31.
Goat:	
Unit 6A and B—1 goat by State registration permit only	Aug. 20–Jan. 31.
Unit 6C	No open season.
Unit 6D (subareas RG242, RG243, RG244, RG245, RG249, RG266, and RG252 only)—1 goat by Federal registration permit only. In each of the Unit 6D subareas, goat seasons will be closed by the Cordova District Ranger when harvest limits for that subarea are reached. Harvest quotas are as follows: RG242—2 goats, RG243—4 goats, RG244 and RG245 combined—2 goats, RG249—4 goats, RG266—4 goats, RG252—1 goat.	Aug. 20–Feb. 28.
Moose:	
Unit 6C—1 antlerless moose by Federal drawing permit only	Sep. 1–Oct. 31.
Permits for the portion of the antlerless moose quota not harvested in the Sep. 1–Oct. 31 hunt may be available for redistribution for a Nov. 1–Dec. 31 hunt.	
Unit 6C—1 bull by Federal drawing permit only	Sep. 1–Dec. 31.
In Unit 6C, only one moose permit may be issued per household. A household receiving a State permit for Unit 6C moose may not receive a Federal permit. The annual harvest quota will be announced by the U.S. Forest Service, Cordova Office, in consultation with ADF&G. The Federal harvest allocation will be 100% of the antlerless moose permits and 75% of the bull permits.	
Unit 6, remainder	No open season.
Beaver: 1 beaver per day, 1 in possession.	May 1–Oct. 31.
Coyote:	
Unit 6A and D—2 coyotes	Sep. 1–Apr. 30.
Unit 6B and 6C—No limit	July 1–June 30.
Fox, red (including cross, black, and silver phases):	No open season.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
Trapping	
Beaver: No limit	Dec. 1–Apr. 30.
Coyote:	
Unit 6C, south of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–Apr. 30.
Units 6A, 6B, 6C, remainder, and 6D—No limit	Nov. 10–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(7) *Unit 7.* (i) Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W long., and all Kenai Peninsula drainages east of 150° W long., from Turnagain Arm to the Kenai River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Kenai Fjords National Park.

(B) You may not hunt in the Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek, and Byron Glacier; however, you may hunt grouse, ptarmigan, hares, and squirrels with shotguns after September 1.

(C) You may not hunt, trap, or take wildlife within a quarter mile of wildlife crossing structures along the Sterling Highway.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15, except in the drainages of Resurrection Creek and its tributaries.

(B) [Reserved]

TABLE 7 TO PARAGRAPH (n)(7)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Caribou:	
Unit 7, north of the Sterling Highway and west of the Seward Highway—1 caribou by Federal registration permit only. The Seward District Ranger will close the Federal season when 5 caribou are harvested by Federal registration permit.	Aug. 10–Dec. 31.
Unit 7, remainder	No open season.
Goat: 1 goat by Federal drawing permit. Nannies accompanied by kids may not be taken	Aug. 10–Nov 14.
Moose:	
Unit 7, that portion draining into Kings Bay—Federal public lands are closed to the taking of moose except by residents of Chenega Bay and Tatitlek.	No open season.
Unit 7, remainder—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 20–Sep. 25.
Sheep: 1 ram with full curl horn or larger by Federal drawing permit	Aug. 10–Sep. 20.
Beaver: 1 beaver per day, 1 in possession	May 1–Oct. 10.
Coyote: No limit	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases):	No open season.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 7, that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 7, remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce): 10 per day, 20 in possession	Aug. 10–Mar. 31.
Grouse (ruffed):	No open season.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: 20 beavers per season	Nov. 10–Mar. 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Jan. 1–31.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–May 15.
Otter: No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(8) *Unit 8.* Unit 8 consists of all islands southeast of the centerline of Shelikof Strait including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

(i) Unit-specific regulations:

(A) If you have a trapping license, you may take beaver with a firearm in Unit 8 from Nov. 10 through Apr. 30.

(B) You may hunt brown bear in Unit 8 with a Federal registration permit in lieu of a State locking tag if you have obtained a Federal registration permit prior to hunting.

(ii) [Reserved]

TABLE 8 TO PARAGRAPH (n)(8)

Harvest limits	Open season
Hunting	
Bear, brown: 1 bear by Federal registration permit only. Up to 2 permits may be issued in Akhiok; up to 1 permit may be issued in Karluk; up to 3 permits may be issued in Larsen Bay; up to 3 permits may be issued in Old Harbor; up to 2 permits may be issued in Ouzinkie; and up to 2 permits may be issued in Port Lions. Permits will be issued by the Kodiak Refuge Manager.	Dec. 1–Dec. 15. Apr. 1–May 15.
Deer:	

TABLE 8 TO PARAGRAPH (n)(8)—Continued

Harvest limits	Open season
Unit 8, all lands within the Kodiak Archipelago within the Kodiak National Wildlife Refuge, including lands on Kodiak, Ban, Uganik, and Afognak Islands—4 deer; however, antlerless deer may be taken only Oct. 1–Jan. 31.	Aug. 1–Jan. 31.
Unit 8, remainder	No open season.
Elk:	
Unit 8, all lands within the Kodiak Archipelago within the Kodiak National Wildlife Refuge, including lands on Kodiak, Ban, Uganik, and Afognak Islands—1 elk per household by Federal registration permit only. The season will be closed by announcement of the Refuge Manager, Kodiak National Wildlife Refuge, when the combined Federal/State harvest reaches 15% of the herd.	Sep. 15–Nov. 30.
Unit 8, remainder	No open season.
Fox, red (including cross, black, and silver phases): 2 foxes	Sep. 1–Feb. 15.
Hare, snowshoe: No limit	July 1–June 30.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: 30 beavers per season	Nov. 10–Apr. 30.
Fox, red (including cross, black, and silver phases): No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Jan. 31.

(9) *Unit 9.* (i) Unit 9 consists of the Alaska Peninsula and adjacent islands, including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage; drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands:

(A) Unit 9A consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve.

(B) Unit 9B consists of the Kvichak River drainage except those lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage.

(C) Unit 9C consists of the Alagnak (Branch) River drainage, the Naknek River drainage, lands drained by the Kvichak River/Bay between the Alagnak River drainage and the Naknek River drainage, and all land and water within Katmai National Park and Preserve.

(D) Unit 9D consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay, including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands.

(E) Unit 9E consists of the remainder of Unit 9.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in Katmai National Park; and

(B) You may not use motorized vehicles, except aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts from Aug. 1 through Nov. 30 in the Naknek Controlled Use Area, which includes all of Unit 9C within the Naknek River drainage upstream from and including the King Salmon Creek drainage; however, you may use a motorized vehicle on the Naknek-King Salmon, Lake Camp, and Rapids Camp roads and on the King Salmon Creek trail, and on frozen surfaces of the Naknek River and Big Creek.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 9B from April 1 through May 31 and in the remainder of Unit 9 from April 1 through 30.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in Unit 9B, except that portion within the Lake Clark National Park and Preserve, if you have obtained a State registration permit prior to hunting.

(C) In Unit 9B, Lake Clark National Park and Preserve, residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, and that portion of the park resident zone in Unit 9B and 13.440 permit holders may hunt brown bear by Federal registration permit in lieu of a resident tag. The season will be closed when 4 females or 10 bears have been taken, whichever occurs first. The permits will be issued and closure announcements made by the Superintendent of Lake Clark National Park and Preserve.

(D) Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, and Port Alsworth may take up to a total of 10 bull moose in Unit 9B for ceremonial purposes, under the terms of a Federal registration permit from July 1 through June 30. Permits will be issued to individuals only at the request of a local organization. This 10-moose limit is not cumulative with that permitted for potlatches by the State.

(E) For Units 9C and 9E only, a federally qualified subsistence user (recipient) of Units 9C and 9E may designate another federally qualified subsistence user of Units 9C and 9E to take bull caribou on his or her behalf. The designated hunter must obtain a designated hunter permit and must return a completed harvest report and turn over all meat to the recipient. There is no restriction on the number of possession limits the designated hunter may have in his/her possession at any one time.

(F) For Unit 9D, a federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take caribou on his or her behalf. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(G) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1 through December 31 or May 10 through 25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The

brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only.

(H) You may hunt brown bear in Unit 9E with a Federal registration permit in lieu of a State locking tag if you have obtained a Federal registration permit prior to hunting.

(I) In Units 9B and 9C, a snowmachine may be used to approach and pursue a wolf or wolverine provided the snowmachine does not contact a live animal.

TABLE 9 TO PARAGRAPH (n)(9)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown:	
Unit 9B, Lake Clark National Park and Preserve—Rural residents of Iliamna, Newhalen, Nondalton, Pedro Bay, Port Alsworth, residents of that portion of the park resident zone in Unit 9B; and 13.440 permit holders—1 bear by Federal registration permit only.	July 1–June 30.
The season will be closed by the Lake Clark National Park and Preserve Superintendent when 4 females or 10 bears have been taken, whichever occurs first.	
Unit 9B, remainder—1 bear by State registration permit only	Sep. 1–May 31.
Unit 9C—1 bear by Federal registration permit only	Oct. 1–May 31.
The season will be closed by the Katmai National Park and Preserve Superintendent in consultation with BLM and FWS land managers and ADF&G, when 6 females or 10 bears have been taken, whichever occurs first.	
Unit 9E—1 bear by Federal registration permit	Sep. 25–Dec. 31. Apr. 15–May 25.
Caribou:	
Unit 9A—up to 2 caribou by State registration permit	Season may be announced between Aug. 1–Mar. 15.
Unit 9B—up to 2 caribou by State registration permit	Season may be announced between Aug. 1–Mar. 31.
Unit 9C, that portion within the Alagnak River drainage excluding Katmai National Preserve—up to 2 caribou by State registration permit.	Season may be announced between Aug. 1–Mar. 15.
Unit 9C, that portion within Katmai National Preserve—1 caribou by Federal registration permit. Federal public lands are closed to the taking of caribou except by residents of Igiugig and Kokhanok hunting under these regulations.	Season may be announced between Aug. 1–Sep. 30 or Nov. 1–Mar. 31.
Unit 9C, that portion draining into the Naknek River from the north, and Graveyard Creek and Coffee Creek—up to 2 caribou by State registration permit.	Season may be announced between Aug. 1–Mar. 15.
Unit 9C, remainder—1 bull by Federal registration permit or State permit. Federal public lands are closed to the taking of caribou except by residents of Unit 9C and Egegik.	May be announced.
Unit 9D—1–4 caribou by Federal registration permit only	Aug. 1–Sep. 30. Nov. 15–Mar. 31.
Unit 9E—1 bull by Federal registration permit or State permit. Federal public lands are closed to the taking of caribou except by residents of Unit 9C, Unit 9E, Nelson Lagoon, and Sand Point.	May be announced.
Sheep:	
Unit 9B, that portion within Lake Clark National Park and Preserve—1 ram with ¾ curl or larger horn by Federal registration permit only. By announcement of the Lake Clark National Park and Preserve Superintendent, the summer/fall season will be closed when up to 5 sheep are taken and the winter season will be closed when up to 2 sheep are taken.	July 15–Oct. 15. Jan. 1–Apr. 1.
Unit 9B, remainder—1 ram with 7/8 curl or larger horn by Federal registration permit only	Aug. 10–Oct. 10.
Unit 9, remainder—1 ram with 7/8 curl or larger horn	Aug. 10–Sep. 20.
Moose:	
Unit 9A—1 bull by State registration permit	Sep. 1–15.
Unit 9B—1 bull by State registration permit	Aug. 27–Sep. 25. Dec. 1–Jan. 15.
Unit 9C, that portion draining into the Naknek River from the north—1 bull by State registration permit.	Sep. 1–20. Dec. 1–31.
Unit 9C, that portion draining into the Naknek River from the south—1 bull by State registration permit. Public lands are closed during December for the hunting of moose, except by federally qualified subsistence users hunting under these regulations.	Aug. 20–Sep. 20. Dec. 1–31.
Unit 9C, remainder—1 bull by State registration permit	Sep. 1–20. Dec. 15–Jan. 15.
Unit 9D—1 bull by Federal registration permit. Federal public lands will be closed by announcement of the Izembek Refuge Manager to the harvest of moose when a total of 10 bulls have been harvested between State and Federal hunts.	Dec. 15–Jan. 20.
Unit 9E—1 bull by State registration permit; however, only antlered bulls may be taken Dec. 1–Jan. 31.	Sep. 1–25. Dec. 1–Jan. 31.
Beaver: Unit 9B and 9E—2 beavers per day	Apr. 15–May 31.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (blue and white phases): No limit	Dec. 1–Mar. 15.
Fox, red (including cross, black, and silver phases): 2 foxes	Sep. 1–Feb. 15.
Hare, Alaska: 1 per day, 4 per season	Nov. 1–Mar. 31.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.

TABLE 9 TO PARAGRAPH (n)(9)—Continued

Harvest limits	Open season
Grouse (spruce): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (rock, willow, and white-tailed): 10 per day, 20 in possession	Aug. 10–last day of Feb.
Trapping	
Beaver:	
No limit	Oct. 10–Mar. 31.
2 beavers per day; only firearms may be used	Apr. 15–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (blue and white phases): No limit	Nov. 10–Feb. 28.
Fox, red (including cross, black, and silver phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(10) *Unit 10.* (i) Unit 10 consists of the Aleutian Islands, Unimak Island, and the Pribilof Islands.

(ii) You may not take any wildlife species for subsistence uses on Otter Island in the Pribilof Islands.

(iii) In Unit 10—Unimak Island only, a federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take caribou on his or her behalf. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than four harvest limits in his/her possession at any one time.

(iv) The communities of False Pass, King Cove, Cold Bay, Sand Point, and Nelson Lagoon annually may each take, from October 1 through December 31 or May 10 through 25, one brown bear for ceremonial purposes, under the terms of a Federal registration permit. A permit will be issued to an individual only at the request of a local organization. The brown bear may be taken from either Unit 9D or Unit 10 (Unimak Island) only.

TABLE 10 TO PARAGRAPH (n)(10)

Harvest limits	Open season
Hunting	
Caribou:	
Unit 10, Unimak Island only—1 bull by Federal registration permit	Aug. 1–Sep. 30.
Unit 10, remainder—No limit	July 1–June 30.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (blue and white phases): No limit	July 1–June 30.
Fox, red (including cross, black, and silver phases): 2 foxes	Sep. 1–Feb. 15.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Ptarmigan (rock and willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (blue and white phases): No limit	July 1–June 30.
Fox, red (including cross, black, and silver phases): 2 foxes	Sep. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(11) *Unit 11.* Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations:

(A) You may use bait to hunt black and brown bear between April 15 and June 15.

(B) One moose without calf may be taken from June 20 through July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or Unit 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(C) For federally qualified subsistence users living within the Ahtna traditional communities of Chistochina, Chitina,

Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina, a community harvest system for moose is authorized on Federal public lands within Unit 11, subject to the framework established by the Federal Subsistence Board.

(*1*) The boundaries of the communities are the most recent Census Designated Places as defined by the U.S. Census Bureau.

(*2*) Participants in the community harvest system may not designate another individual to harvest on their behalf any species for which they register within the community harvest system but may serve as a designated hunter, pursuant to 50 CFR 100.25(e).

(*3*) Community harvest limit for the species authorized in the community harvest system is the sum of individual harvest limits of the participants in the system.

(*4*) Harvest reporting will take the form of reports collected from hunters by the Ahtna Intertribal Resource Commission and submitted directly to land managers and the Office of Subsistence Management, rather than through Federal registration permits, joint State/Federal registration permits, or State harvest tickets.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Aug. 1–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older.

(B) Both the elder and the minor must be federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt.

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met.

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

TABLE 11 TO PARAGRAPH (n)(11)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown: 1 bear	Aug. 10–June 15.
Caribou: 1 bull by Federal registration permit	May be announced.
Sheep:	
1 ram	Aug. 10–Sep. 20.
1 sheep by Federal registration permit only by persons 60 years of age or older. Ewes accompanied by lambs or lambs may not be taken.	Aug. 1–Oct. 20.
Goat:	
Unit 11, that portion within the Wrangell-St. Elias National Park and Preserve that is bounded by the Chitina and Nizina rivers on the south, the Kennicott River and glacier on the southeast, and the Root Glacier on the east—1 goat by Federal registration permit only.	Aug. 25–Dec. 31.
Unit 11, the remainder of the Wrangell-St. Elias National Park and Preserve—1 goat by Federal registration permit only.	Aug. 10–Dec. 31.
Unit 11, that portion outside of the Wrangell-St. Elias National Park and Preserve	No open season.
Federal public lands will be closed by announcement of the Superintendent, Wrangell-St. Elias National Park and Preserve, to the harvest of goats when a total of 45 goats has been harvested between Federal and State hunts.	
Moose:	
Unit 11, that portion draining into the east bank of the Copper River upstream from and including the Slana River drainage—1 antlered bull by joint Federal/State registration permit.	Aug. 20–Sep. 20.
Unit 11, that portion south and east of a line running along the north bank of the Chitina River, the north and west banks of the Nazina River, and the west bank of West Fork of the Nazina River, continuing along the western edge of the West Fork Glacier to the summit of Regal Mountain—1 bull by Federal registration permit. However, during the period Aug. 20–Sep. 20, only an antlered bull may be taken.	Aug. 20–Sep. 20. Nov. 20–Jan. 20.
Unit 11, remainder—1 antlered bull by Federal registration permit only	Aug. 20–Sep. 20.
Muskrat: No limit	Sep. 20–June 10.
Beaver: 1 beaver per day, 1 in possession	June 1–Oct. 10.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Feb. 28.
Grouse (spruce, ruffed, and sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: No limit	Sep. 25–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Nov. 10–Feb. 28.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.

TABLE 11 TO PARAGRAPH (n)(11)—Continued

Harvest limits	Open season
Wolverine: No limit	Nov. 10–Feb. 28.

(12) *Unit 12.* Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage.

(i) Unit-specific regulations:

(A) You may use bait to hunt black and brown bear between April 15 and June 30; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may not use a steel trap, or a snare using cable smaller than 3/32-inch diameter to trap coyotes or wolves in Unit 12 during April and October.

(C) One moose without calf may be taken from June 20 through July 31 in the Wrangell-St. Elias National Park and Preserve in Unit 11 or Unit 12 for the Batzulnetas Culture Camp. Two hunters from either Chistochina or Mentasta Village may be designated by the Mt. Sanford Tribal Consortium to receive the Federal subsistence harvest permit. The permit may be obtained from a Wrangell-St. Elias National Park and Preserve office.

(D) A community harvest system for caribou and moose is authorized on Federal public lands in Unit 12 within the Tok and Little Tok River drainages south of the Tok River bridge and east of the Tok Cutoff Road, and within the Nabesna River drainage west of the east bank of the Nabesna River upstream from the southern boundary of Tetlin National Wildlife Refuge and that portion of Unit 12 that is east of the Nabesna River and south of the Pickerel Lake Winter Trail running southeast from Pickerel Lake to the Canadian border. This community harvest system is for federally qualified subsistence users living within the Ahtna traditional communities of Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina and is subject to the framework established by the Federal Subsistence Board.

(*1*) The boundaries of the communities are the most recent Census Designated Places as defined by the U.S. Census Bureau.

(*2*) Participants in the community harvest system may not designate another individual to harvest on their behalf any species for which they register within the community harvest system but may serve as a designated hunter, pursuant to 50 CFR 100.25(e).

(*3*) The community harvest limit for the species authorized in the community harvest system is the sum of individual harvest limits of the participants in the system.

(*4*) Harvest reporting will take the form of reports collected from hunters by the Ahtna Intertribal Resource Commission and submitted directly to the land managers and the Office of Subsistence Management, rather than through Federal registration permits, joint State/Federal registration permits, or State harvest tickets.

(*5*) Participants must abide by customary and traditional use determinations.

(ii) A joint permit may be issued to a pair of a minor and an elder to hunt sheep during the Aug. 1–Oct. 20 hunt. The following conditions apply:

(A) The permittees must be a minor aged 8 to 15 years old and an accompanying adult 60 years of age or older.

(B) Both the elder and the minor must be federally qualified subsistence users with a positive customary and traditional use determination for the area they want to hunt.

(C) The minor must hunt under the direct immediate supervision of the accompanying adult, who is responsible for ensuring that all legal requirements are met.

(D) Only one animal may be harvested with this permit. The sheep harvested will count against the harvest limits of both the minor and accompanying adult.

TABLE 12 TO PARAGRAPH (n)(12)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown: 1 bear	Aug. 10–June 30.
Caribou:	
Unit 12, that portion within the Wrangell-St. Elias National Park and Preserve that lies west of the Nabesna River and the Nabesna Glacier. All hunting of caribou is prohibited on Federal public lands.	No open season.
Unit 12, that portion east of the Nabesna River and the Nabesna Glacier and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 bull by Federal registration permit only.	Aug. 10–Sep. 30.
Federal public lands are closed to the harvest of caribou except by federally qualified subsistence users hunting under these regulations.	
Unit 12, remainder—1 bull	Sep. 1–20.
Unit 12, remainder—1 caribou may be taken by a Federal registration permit during a winter season to be announced. Dates for a winter season to occur between Oct. 1 and Apr. 30, and sex of the animals to be taken will be announced by the Tetlin National Wildlife Refuge Manager in consultation with the Wrangell-St. Elias National Park and Preserve Superintendent, Alaska Department of Fish and Game area biologists, and Chairs of the Eastern Interior Regional Advisory Council and Upper Tanana/Fortymile Fish and Game Advisory Committee.	Winter season to be announced.
Sheep:	
Unit 12—1 ram with full curl or larger horn	Aug. 10–Sep. 20.
Unit 12, that portion within Wrangell-St. Elias National Park and Preserve—1 ram with full curl horn or larger by Federal registration permit only by persons 60 years of age or older.	Aug. 1–Oct. 20.
Moose:	

TABLE 12 TO PARAGRAPH (n)(12)—Continued

Harvest limits	Open season
Unit 12, that portion within the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to Pickerel Lake—1 antlered bull by Federal registration permit.	Aug. 24–Sep. 20. Nov. 1–Feb. 28.
Unit 12, that portion east of the Nabesna River and Nabesna Glacier, and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 antlered bull.	Aug. 24–Sep. 30.
Unit 12, that portion within the Nabesna River drainage west of the east bank of the Nabesna River upstream from the southern boundary of Tetlin National Wildlife Refuge—1 antlered bull by joint Federal/State registration permit only.	Aug. 20–Sep. 20.
Unit 12, remainder—1 bull	Aug. 24–28. Sep. 8–20.
Beaver: Unit 12, Wrangell-St. Elias National Park and Preserve—6 beavers per season. Meat from harvested beaver must be salvaged for human consumption.	Sep. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Mar. 15.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31
Grouse (spruce, ruffed, and sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit. Hide or meat must be salvaged. Traps, snares, bow and arrow, or firearms may be used	Sep. 15–Jun 10.
Coyote: No limit	Oct. 15–Apr. 30.
Fox, red (including cross, black, and silver phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Mar. 15.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Sep. 20–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Oct. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Feb. 28.

(13) *Unit 13.* (i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeastern corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north and east bank of the Talkeetna River including the Talkeetna River to its confluence with Clear Creek, the eastside drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeastern shore of lake 4408, then southeast in a straight line to the northernmost fork of the Chickaloon River; the drainages into the east bank of the Chickaloon River below the line from lake 4408; the drainages of the Matanuska River above its confluence with the Chickaloon River:

(A) Unit 13A consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the south bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning.

(B) Unit 13B consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning.

(C) Unit 13C consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier.

(D) Unit 13D consists of that portion of Unit 13 south of Unit 13A.

(E) Unit 13E consists of the remainder of Unit 13.

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(13) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) You may not use motorized vehicles or pack animals for hunting Aug. 5–25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Cantwell Glacier and Miller Creek to the Delta River.

(C) Except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Middle Fork trails, or other trails designated by the Board, you may not use motorized vehicles for subsistence hunting in the Sourdough Controlled Use Area. The Sourdough Controlled Use Area consists of that portion of Unit 13B bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Middle Fork Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning.

(D) You may not use any motorized vehicle or pack animal for hunting, including the transportation of hunters, their hunting gear, and/or parts of game from July 26 through September 30 in the Tonsina Controlled Use Area. The Tonsina Controlled Use Area consists of that portion of Unit 13D bounded on the west by the Richardson Highway from the Tiekel River to the Tonsina River at Tonsina, on the north along the south bank of the Tonsina River to where the Edgerton Highway crosses the Tonsina River, then along the Edgerton Highway to Chitina, on the east by the Copper River from Chitina to the Tiekel River, and on the south by the north bank of the Tiekel River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) Upon written request by the Camp Director to the Glennallen Field Office, 2 caribou, sex to be determined by the Glennallen Field Office Manager of the BLM, may be taken from Aug. 10 through Sep. 30 or Oct. 21 through Mar. 31 by Federal registration permit for the Hudson Lake Residential Treatment Camp. Additionally, 1 bull moose may be taken Aug. 1 through Sep. 20. The animals may be taken by any federally qualified hunter designated by the Camp Director. The hunter must have in his/her possession the permit and a designated hunter permit during all periods that are being hunted.

(C) A community harvest system for caribou and moose is authorized on Federal public lands within Unit 13, subject to the framework established by the Federal Subsistence Board, for federally qualified subsistence users living within the Ahtna traditional communities of Cantwell, Chistochina, Chitina, Copper Center, Gakona, Gulkana, Mentasta Lake, and Tazlina.

(*1*) The boundaries of the communities are the most recent Census Designated Places as defined by the U.S. Census Bureau.

(*2*) Participants in the community harvest system may not designate another individual to harvest on their behalf any species for which they register within the community harvest system but may serve as a designated hunter, pursuant to 50 CFR 100.25(e).

(*3*) The community harvest limit for the species authorized in the community harvest system is the sum of individual harvest limits of the participants in the system.

(*4*) Harvest reporting will take the form of reports collected from hunters by the Ahtna Intertribal Resource Commission and submitted directly to the land managers and the Office of Subsistence Management, rather than through Federal registration permits, joint State/Federal registration permits, or State harvest tickets.

TABLE 13 TO PARAGRAPH (n)(13)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown: 1 bear. Bears taken within Denali National Park must be sealed within 5 days of harvest. That portion within Denali National Park will be closed by announcement of the Superintendent after 4 bears have been harvested.	Aug. 10–May 31.
Caribou:	
Units 13A and 13B—up to 2 caribou by Federal registration permit only	Aug. 1–Sep. 30. Oct. 21–Mar. 31.
Unit 13, remainder—2 bulls by Federal registration permit only	Aug. 1–Sep. 30. Oct. 21–Mar. 31.
Sheep: Unit 13, excluding Unit 13D and the Tok Management Area and Delta Controlled Use Area—1 ram with 7/8 curl or larger horn.	Aug. 10–Sep. 20.
Moose:	
Unit 13E—1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household.	Aug. 1–Sep. 20.
Unit 13, remainder—1 antlered bull moose by Federal registration permit only	Aug. 1–Sep. 20.
Beaver: 1 beaver per day, 1 in possession	June 15–Sep. 10.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare, snowshoe: No limit	July 1–June 30.

TABLE 13 TO PARAGRAPH (n)(13)—Continued

Harvest limits	Open season
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Feb. 28.
Grouse (spruce, ruffed, and sharp-tailed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: No limit	Sep. 25–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Nov. 10–Feb. 28.
Marten: Unit 13—No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Sep. 25–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Oct. 15–Apr. 30.
Wolverine: No limit	Nov. 10–Feb. 28.

(14) *Unit 14.* (i) Unit 14 consists of drainages into the northern side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the northern side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south and west bank of the Talkeetna River to its confluence with Clear Creek, the western side drainages of a line going up the south bank of Clear Creek to the first unnamed creek on the south, then up that creek to lake 4408, along the northeastern shore of lake 4408, then southeast in a straight line to the northernmost fork of the Chickaloon River:

(A) Unit 14A consists of drainages in Unit 14 bounded on the west by the east bank of the Susitna River, on the north by the north bank of Willow Creek and Peters Creek to its headwaters, then east along the hydrologic divide separating the Susitna River and Knik Arm drainages to the outlet creek at lake 4408, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the northern side of Knik Glacier to the Unit 6 boundary.

(B) Unit 14B consists of that portion of Unit 14 north of Unit 14A.

(C) Unit 14C consists of that portion of Unit 14 south of Unit 14A.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses in the Fort Richardson and Elmendorf Air Force Base Management Areas, consisting of the Fort Richardson and Elmendorf Military Reservations; and

(B) You may not take wildlife for subsistence uses in the Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek.

(iii) Unit-specific regulations:

TABLE 14 TO PARAGRAPH (n)(14)

Harvest limits	Open season
Hunting	
Bear, black: Unit 14C—1 bear	July 1–June 30.
Beaver: Unit 14C—1 beaver per day, 1 in possession	May 15–Oct. 31.
Coyote: Unit 14C—2 coyotes	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases): Unit 14C—2 foxes	Nov. 1–Feb. 15.
Hare, snowshoe: Unit 14C—5 hares per day	Sep. 8–Apr. 30.
Lynx: Unit 14C—2 lynx	Dec. 1–Jan. 31.
Wolf: Unit 14C—5 wolves	Aug. 10–Apr. 30.
Wolverine: Unit 14C—1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce and ruffed): Unit 14C—5 per day, 10 in possession	Sep. 8–Mar. 31.
Ptarmigan (rock, willow, and white-tailed): Unit 14C—10 per day, 20 in possession	Sep. 8–Mar. 31.
Trapping	
Beaver: Unit 14C, that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 beavers per season.	Dec. 1–Apr. 15.
Coyote: Unit 14C—No limit	Nov. 10–Feb. 28.
Fox, red (including cross, black, and silver phases): Unit 14C—1 fox	Nov. 10–Feb. 28.
Lynx: Unit 14C—No limit	Dec. 15–Jan. 31.
Marten: Unit 14C—No limit	Nov. 10–Jan. 31.
Mink and Weasel: Unit 14C—No limit	Nov. 10–Jan. 31.
Muskrat: Unit 14C—No limit	Nov. 10–May 15.
Otter: Unit 14C—No limit	Nov. 10–Feb. 28.

TABLE 14 TO PARAGRAPH (n)(14)—Continued

Harvest limits	Open season
Wolf: Unit 14C—No limit	Nov. 10–Feb. 28.
Wolverine: Unit 14C—2 wolverines	Nov. 10–Jan. 31.

(15) *Unit 15.* (i) Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet, and Turnagain Arm from Gore Point to the point where longitude line 150°00′ W crosses the coastline of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150°00′ W to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary:

(A) Unit 15A consists of that portion of Unit 15 north of the north bank of the Kenai River and the northern shore of Skilak Lake.

(B) Unit 15B consists of that portion of Unit 15 south of the north bank of the Kenai River and the northern shore of Skilak Lake, and north of the north bank of the Kasilof River, the northern shore of Tustumena Lake, Glacier Creek, and Tustumena Glacier.

(C) Unit 15C consists of the remainder of Unit 15.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife, except for grouse, ptarmigan, and hares that may be taken only from October 1 through March 1 by bow and arrow only, in the Skilak Loop Management Area, which consists of that portion of Unit 15A bounded by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the northern shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning.

(B) You may not hunt, trap, or take wildlife within a quarter mile of wildlife crossing structures along the Sterling Highway.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may not trap furbearers for subsistence in the Skilak Loop Wildlife Management Area.

(C) You may not trap marten in that portion of Unit 15B east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier.

(D) You may not take red fox in Unit 15 by any means other than a steel trap or snare.

TABLE 15 TO PARAGRAPH (n)(15)

Harvest limits	Open season
Hunting	
Bear, black:	
Units 15A and 15B—2 bears by Federal registration permit	July 1–June 30.
Unit 15C—3 bears	July 1–June 30.
Bear, brown: Unit 15—1 bear every 4 regulatory years by Federal registration permit. The season may be opened or closed by announcement from the Kenai National Wildlife Refuge Manager after consultation with ADF&G and the Chair of the Southcentral Alaska Subsistence Regional Advisory Council.	Sep. 1–Nov. 30, to be announced and Apr. 1–June 15, to be announced.
Caribou:	
Unit 15B, within the Kenai National Wildlife Refuge Wilderness Area—1 caribou by Federal drawing permit	Aug. 10–Sep. 20.
Unit 15C, north of the Fox River and east of Windy Lake—1 caribou by Federal drawing permit	Aug. 10–Sep. 20.
Unit 15, remainder	No open season.
Goat: 1 goat by Federal drawing permit. Kids or nannies accompanied by kids may not be taken	Aug. 10–Nov. 14.
Moose:	
Unit 15A—Skilak Loop Wildlife Management Area	No open season.
Units 15A remainder, 15B, and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 20–Sep. 25.
Units 15B and 15C—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only. The Kenai NWR Refuge Manager is authorized to close the October–November season based on conservation concerns, in consultation with ADF&G and the Chair of the Southcentral Alaska Subsistence Regional Advisory Council.	Oct. 20–Nov. 10.
Unit 15C—1 cow by Federal registration permit only	Aug. 20–Sep. 25.
Sheep: 1 ram with ¾ curl horn or larger by Federal drawing permit	Aug 10–Sep. 20.
Coyote: No limit	Sep. 1–Apr. 30.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Jan. 31.
Wolf:	
Unit 15, that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 15, remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Grouse (ruffed)	No open season.
Ptarmigan (rock, willow, and white-tailed):	
Unit 15A and 15B—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 15C—20 per day, 40 in possession	Aug. 10–Dec. 31.

TABLE 15 TO PARAGRAPH (n)(15)—Continued

Harvest limits	Open season
Unit 15C—5 per day, 10 in possession	Jan. 1–Mar. 31.
Trapping	
Beaver: 20 beavers per season	Nov. 10–Mar. 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, red (including cross, black, and silver phases): 1 fox	Nov. 10–Feb. 28.
Lynx: No limit	Jan. 1–31.
Marten:	
Unit 15B, that portion east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier	No open season.
Remainder of Unit 15—No limit	Nov. 10–Jan. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–May 15.
Otter: Unit 15—No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: Unit 15B and C—No limit	Nov. 10–Feb. 28.

(16) *Unit 16.* (i) Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the western side of the Susitna River (including the Susitna River) upstream to its confluence with the Chulitna River; the drainages into the western side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the southern side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier:

(A) Unit 16A consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier; and

(B) Unit 16B consists of the remainder of Unit 16.

(ii) You may not take wildlife for subsistence uses in the Mount McKinley National Park, as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(16) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) [Reserved]

TABLE 16 TO PARAGRAPH (n)(16)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Caribou: 1 caribou	Aug. 10–Oct. 31.
Moose:	
Unit 16B, Redoubt Bay Drainages south and west of, and including the Kustatan River drainage—1 bull	Sep. 1–15.
Unit 16B, Denali National Preserve only—1 bull by Federal registration permit. One Federal registration permit for moose issued per household.	Sep. 1–30. Dec. 1–Feb. 28.
Unit 16B, remainder—1 bull	Sep. 1–30. Dec. 1–Feb. 28.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases): 2 foxes	Sep. 1–Feb. 15.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Dec. 1–Jan. 31.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce and ruffed): 15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping	
Beaver: No limit	Oct. 10–May 15.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 10–Feb. 28.
Lynx: No limit	Dec. 15–Jan. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(17) *Unit 17.* (i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17A consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands.

(B) Unit 17B consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage and the Wood River drainage upstream from the outlet of Lake Beverley.

(C) Unit 17C consists of the remainder of Unit 17.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bear, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves, or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17B, from Aug. 1 through Nov. 1.

(B) [Reserved]

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting.

(C) If you have a trapping license, you may use a firearm to take beaver in Unit 17 from April 15 through May 31. You may not take beaver with a firearm under a trapping license on National Park Service lands.

(D) In Unit 17, a snowmachine may be used to assist in the taking of a caribou, and caribou may be shot from a stationary snowmachine. ''Assist in the taking of a caribou'' means a snowmachine may be used to approach within 300 yards of a caribou at speeds under 15 miles per hour, in a manner that does not involve repeated approaches or that causes a caribou to run. A snowmachine may not be used to contact an animal or to pursue a fleeing caribou.

TABLE 17 TO PARAGRAPH (n)(17)

Harvest limits	Open season
Hunting	
Bear, black: 2 bears	Aug. 1–May 31.
Bear, brown: Unit 17—1 bear by State registration permit only	Sep. 1–May 31.
Caribou:	
Unit 17A, all drainages west of Right Hand Point—up to 2 caribou by State registration permit	Season may be announced between Aug. 1–Mar. 31.
Units 17A and 17C, that portion of 17A east of the Ungalikthluk River and South of Buchia Ridge, and within the lower Kulukak River drainage south of Buchia Ridge and within the Kanik River drainage downstream of the Tithe Creek, that portion of 17C south of the Igushik River and south of and including the Tuklung River drainage—up to 5 caribou by Federal registration permit. Public lands are closed to the taking of caribou except by federally qualified users unless the population estimate exceeds 900 caribou.	Aug. 1–Mar. 31.
Units 17A, remainder and 17C, remainder—selected drainages; a harvest limit of up to 2 caribou by State registration permit will be determined at the time the season is announced.	Season may be announced between Aug. 1 and Mar. 31.
Units 17B and 17C, that portion of 17C east of the Wood River and Wood River Lakes—up to 2 caribou by State registration permit.	Season may be announced between Aug. 1–Mar. 31.
Sheep: 1 ram with full curl or larger horn	Aug. 10–Sep. 20.
Moose:	
Unit 17A—1 bull by State registration permit; or	Aug. 25–Sep. 25.
1 antlerless moose by State registration permit; or	Aug. 25–Sep. 25.
Unit 17A—up to 2 moose; one antlered bull by State registration permit, one antlerless moose by State registration permit.	Up to a 31-day season may be announced between Dec. 1 and the last day of Feb.
Units 17B and 17C—one bull	Aug. 20–Sep. 15. Dec. 1–31.
During the period Aug. 20–Sep. 15—one bull by State registration permit; or During the period Sep. 1–15—one bull with spike-fork or 50-inch antlers or antlers with three or more brow tines on at least one side with a State harvest ticket; or During the period Dec. 1–31—one antlered bull by State registration permit.	
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (blue and white phases): No limit	Dec. 1–Mar. 15.
Fox, red (including cross, black, and silver phases): 2 foxes	Sep. 1–Feb. 15.
Hare, Alaska: 1 per day, 4 per season	Nov. 1–Mar. 31.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce and ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (rock and willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 17—No limit	Oct. 10–Mar. 31.
Unit 17—2 beavers per day. Only firearms may be used	Apr. 15–May 31.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (blue and white phases): No limit	Nov. 10–Mar. 31.

TABLE 17 TO PARAGRAPH (n)(17)—Continued

Harvest limits	Open season
Fox, red (including cross, black, and silver phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: 2 muskrats	Nov. 10–Feb. 28.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(18) *Unit 18.* (i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers westerly and downstream from a line starting at the downriver boundary of Paimiut on the north bank of the Yukon River then south across the Yukon River to the northern terminus of the Paimiut Portage, then south along the Paimiut Portage to its intersection with Arhymot Lake, then south along the northern and western bank of Arhymot Lake to the outlet at Crooked Creek (locally known as Johnson River), then along the south bank of Crooked Creek downstream to the northern terminus of Crooked Creek to the Yukon-Kuskokwim Portage (locally known as the Mud Creek Tramway), then along the west side of the tramway to Mud Creek, then along the westerly bank of Mud Creek downstream to an unnamed slough of the Kuskokwim River (locally known as First Slough or Kalskag Slough), then along the west bank of this unnamed slough downstream to its confluence with the Kuskokwim River, then southeast across the Kuskokwim River to its southerly bank, then along the south bank of the Kuskokwim River upriver to the confluence of a Kuskokwim River slough locally known as Old River, then across Old River to the downriver terminus of the island formed by Old River and the Kuskokwim River, then along the north bank of the main channel of Old River to Igyalleq Creek (Whitefish Creek), then along the south and west bank of Igyalleq Creek to Whitefish Lake, then directly across Whitefish Lake to Ophir Creek, then along the west bank of Ophir Creek to its headwaters at 61°10.22′ N lat., 159°46.05′ W long., and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthews, and adjacent islands between Cape Newenham and the Pastolik River, and all seaward waters and lands within 3 miles of these coastlines.

(ii) In the Kalskag Controlled Use Area, which consists of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag, you are not allowed to use aircraft for hunting any ungulate, bear, wolf, or wolverine, including the transportation of any hunter and ungulate, bear, wolf, or wolverine part; however, this does not apply to transportation of a hunter or ungulate, bear, wolf, or wolverine part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the Area and points outside the Area.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 18 from April 1 through June 10.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting.

(C) You may take caribou from a boat moving under power in Unit 18.

(D) You may take moose from a boat moving under power in that portion of Unit 18 west of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the east bank of the Johnson River at its entrance into Nunavakanukakslak Lake (N 60°59.41′ Latitude; W 162°22.14′ Longitude), continuing upriver along a line ½ mile south and east of, and paralleling a line along the southerly bank of the Johnson River to the confluence of the east bank of Crooked Creek, then continuing upriver to the outlet at Arhymot Lake, then following the south bank west to the Unit 18 border.

(E) Taking of wildlife in Unit 18 while in possession of lead shot size T, .20 caliber or less in diameter, is prohibited.

(F) You may not pursue with a motorized vehicle an ungulate that is at or near a full gallop.

(G) You may use artificial light when taking a bear at a den site.

TABLE 18 TO PARAGRAPH (n)(18)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown: 1 bear by State registration permit only	Sep. 1–May 31.
Caribou:	
Unit 18, that portion to the east and south of the Kuskokwim River—up to 2 caribou by State registration permit.	Season may be announced between Aug. 1–Mar. 15.
Unit 18, remainder—up to 2 caribou by State registration permit	Season may be announced between Aug. 1–Mar. 15.

TABLE 18 TO PARAGRAPH (n)(18)—Continued

Harvest limits	Open season
Moose: Unit 18, that portion east of a line running from the mouth of the Ishkowik River to the closest point of Dall Lake, then to the east bank of the Johnson River at its entrance into Nunavakanukakslak Lake (N 60°59.41′ Latitude; W162°22.14′ Longitude), continuing upriver along a line ½ mile south and east of, and paralleling a line along the southerly bank of the Johnson River to the confluence of the east bank of Crooked Creek, then continuing upriver to the outlet at Arhymot Lake, then following the south bank east of the Unit 18 border and then north of and including the Eek River drainage—1 antlered bull by State registration permit during the fall season	Sep. 1–Oct. 15. May be announced between Dec. 1–Jan. 31.
or	
Up to 1 moose by Federal permit during a may-be-announced winter season Federal public lands are closed to the taking of moose except by residents of Akiachak, Akiak, Atmautlauk, Bethel, Eek, Kalskag, Kasigluk, Kipnuk, Kongiganak, Kwethluk, Kwigillingok, Lower Kalskag, Napakiak, Napaskiak, Nunapitchuk, Oscarville, Quinhagak, Tuluksak, and Tuntutuliak.	
Unit 18, south of the Eek River drainage and north of and including the Carter Bay drainage—1 antlered bull by State registration permit.	Sep. 1–Oct. 15.
Unit 18, that portion that drains into Kuskokwim Bay south of Carter Bay drainage—1 antlered bull by State registration permit.	Sep. 1–30.
Or	
1 moose by State registration permit	A season may be announced between Dec. 1 and the last day of Feb.
Unit 18, remainder—3 moose, only one of which may be antlered. Antlered bulls may not be harvested from Oct. 1 through Nov. 30.	Aug. 1–Apr. 30.
Beaver: No limit	July 1–June 30.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (blue and white phases): 2 foxes	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare, Alaska: 2 per day, 6 per season	Aug. 1–May 31.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 5 lynx	Aug. 10–Apr. 30.
Wolf: 10 wolves	Aug. 10–Apr. 30.
Wolverine: 2 wolverine	Sep. 1–Mar. 31.
Grouse (spruce and ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (rock and willow): 15 per day, 30 in possession	Aug. 10–May 30.
Trapping	
Beaver: No limit	July 1–June 30.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (blue and white phases): No limit	Nov. 10–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Mar. 31.
Mink and Weasel: No limit	Nov. 10–Mar. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Mar. 31.

(19) *Unit 19.* (i) Unit 19 consists of the Kuskokwim River drainage upstream, excluding the drainages of Arhymot Lake, from a line starting at the outlet of Arhymot Lake at Crooked Creek (locally known as Johnson River), then along the south bank of Crooked Creek downstream to the northern terminus of Crooked Creek to the Yukon-Kuskokwim Portage (locally known as the Mud Creek Tramway), then along the west side of the tramway to Mud Creek, then along the westerly bank of Mud Creek downstream to an unnamed slough of the Kuskokwim River (locally known as First Slough or Kalskag Slough), then along the west bank of this unnamed slough downstream to its confluence with the Kuskokwim River, then southeast across the Kuskokwim River to its southerly bank, then along the south bank of the Kuskokwim River upriver to the confluence of a Kuskokwim River slough locally known as Old River, then across Old River to the downriver terminus of the island formed by Old River and the Kuskokwim River, then along the north bank of the main channel of Old River to Igyalleq Creek (Whitefish Creek), then along the south and west bank of Igyalleq Creek to Whitefish Lake, then directly across Whitefish Lake to Ophir Creek then along the west bank of Ophir Creek to its headwaters at 61°10.22′ N lat., 159°46.05′ W long.:

(A) Unit 19A consists of the Kuskokwim River drainage downstream from and including the George River drainage and downstream from and excluding the Downey Creek drainage.

(B) Unit 19B consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage.

(C) Unit 19C consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwestern corner

of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage.

(D) Unit 19D consists of that portion drained by the Kuskokwim River drainage upstream from and including the Swift River drainage, excluding Unit 19C.

(E) Unit 19E consists of the remainder of Unit 19.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(19) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) In the Upper Kuskokwim Controlled Use Area, which consists of that portion of Unit 19D upstream from the mouth of the Selatna River, but excluding the Selatna and Black River drainages, to a line extending from Dyckman Mountain on the northern Unit 19D boundary southeast to the 1,610-foot crest of Munsatli Ridge, then south along Munsatli Ridge to the 2,981-foot peak of Telida Mountain, then northeast to the intersection of the western boundary of Denali National Preserve with the Minchumina-Telida winter trail, then south along the western boundary of Denali National Preserve to the southern boundary of Unit 19D, you may not use aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area, or between a publicly owned airport within the area and points outside the area.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30.

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in those portions of Units 19A and 19B downstream of and including the Aniak River drainage if you have obtained a State registration permit prior to hunting.

(C) In Unit 19C, individual residents of Nikolai may harvest sheep during the Aug. 10 to Sep. 20 season and not have that animal count against the community harvest limit (during the Oct. 1 to Mar. 30 season). Individual residents of Nikolai that harvest a sheep under State regulations may not participate in the Oct. 1 to Mar. 30 community harvest.

TABLE 19 TO PARAGRAPH (n)(19)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown: Units 19A and 19B, those portions which are downstream of and including the Aniak River drainage—1 bear by State registration permit.	Aug. 10–June 30.
Units 19A, remainder; 19B, remainder; 19D; and 19E—1 bear	Aug. 10–June 30.
Caribou: Units 19A, 19B, and 19E (excluding rural Alaska residents of Lime Village)—up to 2 caribou by State registration permit.	Season may be announced between Aug. 1–Mar. 15.
Unit 19C—1 caribou	Aug. 10–Oct. 10.
Unit 19D, south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–Sep. 30. Nov. 1–Jan. 31.
Unit 19D, remainder—1 caribou	Aug. 10–Sep. 30.
Unit 19, residents domiciled in Lime Village only—no individual harvest limit but a village harvest quota of 200 caribou; cows and calves may not be taken from Apr. 1 through Aug. 9. Reporting will be by a community reporting system.	July 1–June 30.
Sheep: 1 ram with 7/8 curl horn or larger	Aug. 10–Sep. 20.
Unit 19C, that portion within the Denali National Park and Preserve-residents of Nikolai only—no individual harvest limit, but a community harvest quota will be set annually by the Denali National Park and Preserve Superintendent; rams or ewes without lambs only. Reporting will be by a community reporting system.	Oct. 1–Mar. 30.
Moose: Unit 19, residents of Lime Village only—no individual harvest limit, but a village harvest quota of 28 bulls (including those taken under the State permits). Reporting will be by a community reporting system.	July 1–June 30.
Unit 19A—1 antlered bull by Federal drawing permit or a State permit. Federal public lands are closed to the taking of moose except by residents of Tuluksak, Lower Kalskag, Upper Kalskag, Aniak, Chuathbaluk, and Crooked Creek hunting under these regulations.	Sep. 1–20.
Unit 19B—1 bull with spike-fork or 50-inch antlers or antlers with 4 or more brow tines on one side	Sep. 1–20.
Unit 19C—1 antlered bull	Sep. 1–20.
Unit 19C—1 bull by State registration permit	Jan. 15–Feb. 15.
Unit 19D, that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 antlered bull.	Sep. 1–30.
Unit 19D, remainder of the Upper Kuskokwim Controlled Use Area—1 bull	Sep. 1–30. Dec. 1–Feb. 28.
Unit 19D, remainder—1 antlered bull	Sep. 1–30. Dec. 1–15.
Unit 19E, Lime Village Management Area—2 bulls by State or Federal registration permit	Aug. 10–Sep. 25. Nov. 20–Mar 31.
Unit 19E—1 antlered bull by State registration permit available in Sleetmute and Stoney River on July 24. Permits issued on a first come, first served basis (number of permits to be announced annually).	Sep. 1–5.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: Unit 19D—10 wolves per day	Aug. 10–Apr. 30.
Unit 19, remainder—5 wolves	Aug. 10–Apr. 30.

TABLE 19 TO PARAGRAPH (n)(19)—Continued

Harvest limits	Open season
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce, ruffed, and sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 1–Mar. 31.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(20) *Unit 20.* (i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages, and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River:

(A) Unit 20A consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River.

(B) Unit 20B consists of drainages into the northern bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage.

(C) Unit 20C consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River.

(D) Unit 20D consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding, the Banner Creek drainage.

(E) Unit 20E consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage.

(F) Unit 20F consists of the remainder of Unit 20.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. Subsistence uses as authorized by this paragraph (n)(20) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(B) You may not use motorized vehicles or pack animals for hunting Aug. 5–25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle benchmark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 of the Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River.

(C) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(D) You may not use any motorized vehicle for hunting August 5–September 20 in the Glacier Mountain Controlled Use Area, which consists of that portion of Unit 20E bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway; however, this does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport.

(E) You may by permit hunt moose on the Minto Flats Management Area, which consists of that portion of Unit 20

bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River 3 miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning.

(F) You may hunt moose only by bow and arrow in the Fairbanks Management Area. The Area consists of that portion of Unit 20B bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to Isberg Road, then northeasterly on Isberg Road to Cripple Creek Road, then northeasterly on Cripple Creek Road to the Parks Highway, then north on the Parks Highway to Alder Creek, then westerly to the middle fork of Rosie Creek through section 26 to the Parks Highway, then east along the Parks Highway to Alder Creek, then upstream along Alder Creek to its confluence with Emma Creek, then upstream along Emma Creek to its headwaters, then northerly along the hydrographic divide between Goldstream Creek drainages and Cripple Creek drainages to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to Sheep Creek Road, then north on Sheep Creek Road to Murphy Dome Road, then west on Murphy Dome Road to Old Murphy Dome Road, then east on Old Murphy Dome Road to the Elliot Highway, then south on the Elliot Highway to Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, Davidson Ditch, then southeasterly along the Davidson Ditch to its confluence with the tributary to Goldstream Creek in Section 29, then downstream along the tributary to its confluence with Goldstream Creek, then in a straight line to First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its confluence with Ruby Creek, then upstream along Ruby Creek to Esro Road, then south on Esro Road to Chena Hot Springs Road, then east on Chena Hot Springs Road to Nordale Road, then south on Nordale Road to the Chena River, to its intersection with the Trans-Alaska Pipeline right of way, then southeasterly along the easterly edge of the Trans-Alaska Pipeline right of way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along the Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear April 15–June 30; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may not use a steel trap or a snare using cable smaller than 3/32-inch diameter to trap coyotes or wolves in Unit 20E during April and October.

(C) Residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals at the request of the Native Village of Tanana only. This three-moose limit is not cumulative with that permitted by the State.

TABLE 20 TO PARAGRAPH (n)(20)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown: Unit 20A—1 bear	Sep. 1–May 31.
Unit 20E—1 bear	Aug. 10–June 30.
Unit 20, remainder—1 bear	Sep. 1–May 31.
Caribou: Unit 20E—up to 3 caribou, to be announced, by a joint State/Federal registration permit	Fall season between Aug. 1 and Sep. 30, to be announced. Winter season between Oct. 21 and Mar. 31, to be announced.
Unit 20F, north of the Yukon River—1 caribou	Aug. 10–Mar. 31.
Unit 20F, east of the Dalton Highway and south of the Yukon River—up to 3 caribou, to be announced, by a joint State/Federal registration permit.	Fall season between Aug. 1 and Sep. 30, to be announced. Winter season between Oct. 21 and Mar. 31, to be announced.
Moose: Unit 20A—1 antlered bull	Sep. 1–20.
Unit 20B—1 antlered bull	Sep. 1–20.
Unit 20C, that portion within Denali National Park and Preserve west of the Toklat River, excluding lands within Mount McKinley National Park as it existed prior to December 2, 1980—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sep. 1–30. Nov. 15–Dec. 15.
Unit 20C, remainder—1 antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sep. 1–30.
Unit 20E, that portion within Yukon-Charley Rivers National Preserve—1 bull	Aug. 20–Sep. 30.
Unit 20E, that portion drained by the Middle Fork of the Fortymile River upstream from and including the Joseph Creek drainage—1 bull.	Aug. 20–Sep. 30.
Unit 20E, remainder—1 bull by joint Federal/State registration permit	Aug. 20–Sep. 30.
Unit 20F, that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only.	Sep. 1–25.
Unit 20F, remainder—1 antlered bull	Sep. 1–30. Dec. 1–10.
Sheep: Unit 20E—1 ram with full-curl horn or larger	Aug. 10–Sep. 20.
Unit 20, remainder	No open season.

TABLE 20 TO PARAGRAPH (n)(20)—Continued

Harvest limits	Open season
Beaver: Unit 20E—Yukon-Charley Rivers National Preserve—6 beavers per season. Meat from harvested beaver must be salvaged for human consumption.	Sep. 20–May 15.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: Units 20A, 20B, and that portion of 20C east of the Teklanika River—2 lynx	Dec. 1–Jan. 31.
Unit 20E—2 lynx	Nov. 1–Jan. 31.
Unit 20, remainder—2 lynx	Dec. 1–Jan. 31.
Muskrat: Unit 20E, that portion within Yukon-Charley Rivers National Preserve—No limit	Sep. 20–June 10.
Unit 20C, that portion within Denali National Park and Preserve—25 muskrat	Nov. 1–June 10.
Unit 20, remainder	No open season.
Wolf:	
Unit 20C, that portion within Denali National Park and Preserve—1 wolf during the Aug. 10–Oct. 31 period; 5 wolves during the Nov. 1–Apr. 30 period, for a total of 6 wolves for the season.	Aug. 10–Oct. 31. Nov. 1–Apr. 30.
Unit 20, remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce, ruffed, and sharp-tailed): Units 20A, 20B, 20C, 20E, and 20F—15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (rock and willow): Unit 20, those portions within 5 miles of Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction—20 per day, 40 in possession.	Aug. 10–Mar. 31.
Unit 20, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: Units 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 15.
Unit 20E—No limit. Hide or meat must be salvaged. Traps, snares, bow and arrow, or firearms may be used	Sep. 15–June 10.
Coyote: Unit 20E—No limit	Oct. 15–Apr. 30.
Unit 20, remainder—No limit	Nov. 1–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 1–Feb. 28.
Lynx: Units 20A, 20B, and 20C east of the Teklanika River—No limit	Dec. 15–Feb. 15.
Unit 20E—No limit	Nov. 1–Mar. 15.
Units 20F and 20C, remainder—No limit	Nov. 1–Feb. 28.
Marten: Unit 20E—No limit	Nov. 1–Mar. 15
Unit 20, remainder—No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: Unit 20E—No limit	Sep. 20–June 10.
Unit 20, remainder—No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: Units 20A, 20B, 20C, and 20F—No limit	Nov. 1–Apr. 30.
Unit 20E—No limit	Oct. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Feb. 28.

(21) *Unit 21.* (i) Unit 21 consists of drainages into the Yukon River and Arhymot Lake upstream from a line starting at the downriver boundary of Paimiut on the north bank of the Yukon River then south across the Yukon River to the northern terminus of the Paimiut Portage, then south along the Portage to its intersection with Arhymot Lake, then south along the northern and western bank of Arhymot Lake to the outlet at Crooked Creek (locally known as Johnson River) drainage then to, but not including, the Tozitna River drainage on the north bank, and to but not including the Tanana River drainage on the south bank, and excluding the Koyukuk River drainage upstream from the Dulbi River drainage:

(A) Unit 21A consists of the Innoko River drainage upstream from and including the Iditarod River drainage.

(B) Unit 21B consists of the Yukon River drainage upstream from Ruby and east of the Ruby-Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Melozitna River drainage upstream from Grayling Creek.

(C) Unit 21C consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage.

(D) Unit 21D consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby-Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek.

(E) Unit 21E consists of that portion of Unit 21 in the Yukon River and Arhymot Lake drainages upstream from a line starting at the downriver boundary of Paimiut on the north bank of the Yukon River, then south across the Yukon River to the northern terminus of the Paimiut Portage, then south along the Portage to its intersection with Arhymot Lake, then along the northern and western bank of Arhymot Lake to the outlet at Crooked Creek (locally known as Johnson River) drainage, then to, but not including, the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N lat., 157°43.10′ W long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N lat.,

157°44.89′ W long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57′ N lat., 156°41′ W long.) at 65°56.66′ N lat., 156°40.81′ W long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N lat., 156° 12.71′ W long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N lat., 155°18.57′ W long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N lat., 154°52.18′ W long., then southwest to the mouth of Cottonwood Creek at 65°3.00′ N lat., 156°06.43′ W long., then southwest to Bishop Rock (Yistletaw) at 64°49.35′ N lat., 157° 21.73′ W long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(B) The Paradise Controlled Use Area, which consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then extending 2 miles easterly down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

(iii) In Unit 21D, you may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear between September 1 and September 25.

(B) If you have a trapping license, you may use a firearm to take beaver in Unit 21(E) from Nov. 1 through June 10.

(C) The residents of Units 20 and 21 may take up to three moose per regulatory year for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three-moose limit is not cumulative with that permitted by the State.

(D) The residents of Unit 21 may take up to three moose per regulatory year for the celebration known as the Kaltag/Nulato Stickdance, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Kaltag or Nulato. This three-moose limit is not cumulative with that permitted by the State.

TABLE 21 TO PARAGRAPH (n)(21)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown:	
Unit 21D—1 bear by State registration permit only	Aug. 10–June 30.
Unit 21, remainder—1 bear	Aug. 10–June 30.
Caribou:	
Unit 21A—1 caribou	Aug. 10–Sep. 30. Dec. 10–20.
Unit 21B, that portion north of the Yukon River and downstream from Ukawutni Creek	No open season.
Unit 21C, the Dulbi and Melozitna River drainages downstream from Big Creek	No open season.
Unit 21B, remainder, Unit 21C, remainder, and Unit 21E—1 caribou	Aug. 10–Sep. 30.
Unit 21D, north of the Yukon River and east of the Koyukuk River—caribou may be taken during a winter season to be announced.	Winter season to be announced.
Unit 21D, remainder—15 caribou, only 1 may be a cow, and calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	Sep. 1–Mar. 31.
Moose:	
Unit 21B, that portion within the Nowitna National Wildlife Refuge downstream from and including the Little Mud River drainage—1 bull. A State registration permit is required Sep. 5–25. A Federal registration permit is required Sep. 26–Oct. 1.	Sep. 5–Oct. 1.
Unit 21B, that portion within the Nowitna National Wildlife Refuge downstream from and including the Little Mud River drainage—1 antlered bull. A Federal registration permit is required during the 5-day season and will be limited to one per household.	Five-day season to be announced between Dec. 1 and Mar. 31.
Units 21A and 21B, remainder—1 bull	Aug. 20–Sep. 25. Nov. 1–30.
Unit 21C—1 antlered bull	Sep. 5–25.

TABLE 21 TO PARAGRAPH (n)(21)—Continued

Harvest limits	Open season
Unit 21D, Koyukuk Controlled Use Area—1 bull by State registration permit; 1 antlerless moose by Federal permit if authorized by announcement by the Koyukuk/Nowitna/Innoko NWR manager. Harvest of cow moose accompanied by calves is prohibited. A harvestable surplus of cows will be determined for a quota.	Sep. 1–25. Mar. 1–5 season to be announced.
Or	
1 antlered bull by Federal permit, if there is no Mar. 1–5 season and if authorized by announcement by the Koyukuk/Nowitna/Innoko NWR manager and BLM Central Yukon field office manager.	Apr. 10–15 season to be announced.
Unit 21D, that portion south of the south bank of the Yukon River, downstream of the up-river entrance of Kala Slough and west of Kala Creek—1 moose by State registration permit.	Aug. 22–31. Sep. 5–25.
Antlerless moose may be taken only during Sep. 21–25 season if authorized jointly by the Koyukuk/Nowitna/Innoko NWR Manager and the BLM Central Yukon Field Office Manager.	Mar. 1–31 season may be announced.
Antlerless moose may be harvested during the winter season	
Harvest of cow moose accompanied by calves is prohibited	
Unit 21D, remainder—1 moose by State registration permit. Antlerless moose may be taken only during Sep. 21–25 and the Mar. 1–5 season if authorized jointly by the Koyukuk/Nowitna/Innoko NWR Manager and the BLM Central Yukon Field Office Manager. Harvest of cow moose accompanied by calves is prohibited. During the Aug. 22–31 and Sep. 5–25 seasons, a State registration permit is required. During the Mar. 1–5 season, a Federal registration permit is required.	Aug. 22–31. Sep. 5–25. Mar. 1–5 season to be announced.
Unit 21E—1 moose; however, only bulls may be taken Aug. 25–Sep. 30	Aug. 25–Sep. 30.
During the Feb. 15–Mar. 15 season, a Federal registration permit is required. The permit conditions and any needed closures for the winter season will be announced by the Innoko NWR manager after consultation with the ADF&G area biologist and the Chairs of the Western Interior Regional Advisory Council and the Middle Yukon Fish and Game Advisory Committee as stipulated in a letter of delegation. Moose may not be taken within one-half mile of the Innoko or Yukon Rivers during the winter season.	Feb. 15–Mar. 15.
Beaver:	
Unit 21E—No limit	Nov. 1–June 10.
Unit 21, remainder	No open season.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare (snowshoe and tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce, ruffed, and sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 1–Feb. 28.
Lynx: No limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(22) *Unit 22.* (i) Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22A consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands.

(B) Unit 22B consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage.

(C) Unit 22C consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands.

(D) Unit 22D consists of that portion of Unit 22 draining into the Bering Sea north of, but not including, the Tisuk River to and including Cape York and St. Lawrence Island.

(E) Unit 22E consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. Aircraft may not be used in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) If you have a trapping license, you may use a firearm to take beaver in Unit 22 during the established seasons.

(B) Coyote, incidentally taken with a trap or snare, may be used for subsistence purposes.

(C) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine.

(D) The taking of one bull moose and up to three musk oxen by the community of Wales is allowed for the celebration of the Kingikmuit Dance Festival under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Wales. The harvest may occur only within regularly established seasons in Unit 22E. The harvest will count against any established quota for the area.

(E) A federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take musk oxen on his or her behalf. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients in the course of a season, but have no more than two harvest limits in his/her possession at any one time, except in Unit 22E where a resident of Wales or Shishmaref acting as a designated hunter may hunt for any number of recipients, but have no more than four harvest limits in his/her possession at any one time.

TABLE 22 TO PARAGRAPH (n)(22)

Harvest limits	Open season
Hunting	
Bear, black:	
Units 22A and 22B—3 bears	July 1–June 30.
Unit 22, remainder	No open season.
Bear, brown:	
Units 22A, 22D remainder, and 22E—1 bear by State registration permit only	Aug. 1–May 31.
Unit 22B—2 bears by State registration permit	Aug. 1–May 31.
Unit 22C—1 bear by State registration permit only	Aug. 1–Oct. 31. Apr. 1–May 31.
Unit 22D, that portion west of the Tisuk River drainage, west of the west bank of the unnamed creek originating at the Unit boundary opposite the headwaters of McAdam's Creek and west of the west bank of Canyon Creek to its confluence with Tuksuk Channel—2 bears by Federal registration permit.	July 1–June 30.
Caribou:	
Unit 22B, that portion west of Golovnin Bay and west of a line along the west bank of the Fish and Niukluk Rivers to the mouth of the Libby River, and excluding all portions of the Niukluk River drainage upstream from and including the Libby River drainage—15 caribou, only 1 may be a cow by State registration permit. Calves may not be taken.	Oct. 1–Apr. 30. May 1–Sep. 30, season may be announced.
Units 22A, that portion north of the Golsovia River drainage, 22B remainder, that portion of Unit 22D in the Kuzitrin River drainage (excluding the Pilgrim River drainage), and the Agiapuk River drainages, including the tributaries, and Unit 22E, that portion east of and including the Tin Creek drainage—15 caribou, only 1 may be a cow by State registration permit. Calves may not be taken.	July 1–June 30.
Unit 22A, remainder—15 caribou, only 1 may be a cow by State registration permit. Calves may not be taken	July 1–June 30, season may be announced.
Unit 22D, that portion in the Pilgrim River drainage—15 caribou, only 1 may be a cow by State registration permit. Calves may not be taken.	Oct. 1–Apr. 30. May 1–Sep. 30, season may be announced.
Units 22C, 22D remainder, 22E remainder—15 caribou, only 1 may be a cow by State registration permit. Calves may not be taken.	July 1–June 30, season may be announced.
Moose:	
Unit 22A, that portion north of the Egavik Creek drainage—1 bull. Federal public lands are closed to hunting Sep. 21–Aug. 31 except by federally qualified users hunting under these regulations.	Aug. 1–Sep. 30.
Unit 22A, that portion in the Unalakleet drainage and all drainages flowing into Norton Sound north of the Golsovia River drainage and south of and including the Egavik Creek drainage—1 bull by Federal registration permit. Federal public lands are closed to the taking of moose except by federally qualified users hunting under these regulations. The BLM Anchorage Field Office is delegated authority to close the season in consultation with ADF&G.	Aug. 15–Sep. 14.
Unit 22A, remainder—1 bull. However, during the period Jan.1–Feb. 15, only an antlered bull may be taken. Federal public lands are closed to the taking of moose, Oct. 1–Aug. 31, except by federally qualified subsistence users.	Aug. 1–Sep. 30. Jan. 1–Feb. 15.
Unit 22B, west of the Darby Mountains—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by federally qualified subsistence users hunting under these regulations.	Sep. 1–14.
Unit 22B, west of the Darby Mountains—1 bull by either Federal or State registration permit. Quotas and any needed season closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of White Mountain and Golovin hunting under these regulations.	Jan. 1–31.
Unit 22B, remainder—1 bull	Aug. 1–Jan. 31.
Unit 22C—1 antlered bull	Sep. 1–14.
Unit 22D, that portion within the Kougarok, Kuzitrin, and Pilgrim River drainages—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Sep. 1–14.

TABLE 22 TO PARAGRAPH (n)(22)—Continued

Harvest limits	Open season
Unit 22D, that portion west of the Tisuk River drainage and Canyon Creek—1 bull by State registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G.	Sep. 1–14.
Unit 22D, that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal registration permit. Quotas and any needed closures will be announced by the Anchorage Field Office Manager of the BLM, in consultation with NPS and ADF&G. Federal public lands are closed to the taking of moose except by residents of Units 22D and 22C hunting under these regulations.	Dec. 1–31.
Unit 22D, remainder—1 bull by State registration permit. Federal public lands are closed to the harvest of moose except by federally qualified subsistence users.	Aug. 10–Sep. 14
Unit 22D, remainder—1 antlered bull by State registration permit. Federal public lands are closed to the harvest of moose except by federally qualified subsistence users.	Season may be announced, Dec. 1–Jan. 31.
Unit 22E—1 antlered bull. Federal public lands are closed to the taking of moose except by federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Musk ox:	
Unit 22B—1 bull by Federal drawing permit or State permit. Federal public lands are closed to the taking of musk ox except by federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22D, that portion west of the Tisuk River drainage and Canyon Creek—1 bull by Federal drawing permit or State permit. Federal public lands are closed to the harvest of musk ox except by residents of Nome and Teller hunting under these regulations.	Sep. 1–Mar. 15.
Unit 22D, that portion within the Kuzitrin River drainages—1 bull by Federal drawing permit or State permit. Federal public lands are closed to the taking of musk ox except for residents of Council, Golovin, White Mountain, Nome, Teller, and Brevig Mission hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22D, remainder—1 bull by Federal drawing permit or State permit. Federal public lands are closed to the taking of musk ox except by residents of Elim, White Mountain, Nome, Teller, and Brevig Mission hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22E—1 bull by Federal drawing permit or State permit. Federal public lands are closed to the harvest of musk ox except by federally qualified subsistence users hunting under these regulations.	Aug. 1–Mar. 15.
Unit 22, remainder	No open season.
Beaver:	
Units 22A, 22B, 22D, and 22E—50 beavers	Nov. 1–June 10.
Unit 22, remainder	No open season.
Coyote	No open season.
Fox, Arctic (blue and white phases): 2 foxes	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes	Nov. 1–Apr. 15.
Hare, Alaska: 2 per day, 6 per season	Aug. 1–May 31.
Hare, snowshoe: No limit	Sep. 1–Apr. 15.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Marten:	
Units 22A and 22B—No limit	Nov. 1–Apr. 15.
Unit 22, remainder	No open season.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 15.
Wolverine: 3 wolverines	Sep. 1–Mar. 31.
Grouse (spruce): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (rock and willow):	
Units 22A and 22B east of and including the Niukluk River drainage—40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22E—20 per day, 40 in possession	July 15–May 15.
Unit 22, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Units 22A, 22B, 22D, and 22E—50 beavers	Nov. 1–June 10.
Unit 22C	No open season.
Coyote	No open season.
Fox, Arctic (blue and white phases): No limit	Nov. 1–Apr. 15.
Fox, red (including cross, black, and silver phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(23) *Unit 23.* (i) Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species in the Noatak Controlled Use Area for the period August 15–September 30. The Area consists of that portion of Unit 23 in a corridor extending 5 miles on either side of the Noatak River beginning at the mouth of the Noatak River, and extending upstream to the mouth of Sapun Creek. This closure does not apply to the transportation of hunters or parts of ungulates, bear, wolves, or wolverine by regularly scheduled flights to communities by carriers that normally provide scheduled air service.

(B) [Reserved]

(iii) You may not use aircraft in any manner for brown bear hunting, including transportation of hunters, bears, or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou while hunting from a boat moving under power in Unit 23.

(B) In addition to other restrictions on method of take found in this section, you may also take swimming caribou with a firearm using rimfire cartridges.

(C) If you have a trapping license, you may take beaver with a firearm in all of Unit 23 from Nov. 1 through June 10.

(D) For the Baird and DeLong Mountain sheep hunts—a federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take sheep on his or her behalf. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipients' harvest limits in his/her possession at the same time.

(E) A snowmachine may be used to position a hunter to select individual caribou for harvest provided that the animals are not shot from a moving snowmachine. On BLM-managed lands only, a snowmachine may be used to position a caribou, wolf, or wolverine for harvest provided that the animals are not shot from a moving snowmachine.

(F) A federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take musk oxen on his or her behalf. The designated hunter must get a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but have no more than two harvest limits in his/her possession at any one time.

TABLE 23 TO PARAGRAPH (n)(23)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown: Unit 23—2 bears by State subsistence registration permit	July 1–June 30.
Caribou:	
Unit 23, that portion which includes all drainages north and west of, and including, the Singoalik River drainage—15 caribou, only 1 may be a cow, by State registration permit as follows:	
Bulls may be harvested	July 1–June 30.
Cows may be harvested. However, cows accompanied by calves may not be taken July 15–Oct. 14	July 15–Apr. 30.
Federal public lands are closed to caribou hunting Aug. 1–Oct. 31, except by federally qualified subsistence users hunting under these regulations unless the Western Arctic Caribou herd population estimate exceeds 200,000 caribou.	
Unit 23, remainder—15 caribou, only 1 may be a cow, by State registration permit, as follows:	
Bulls may be harvested	July 1–June 30.
Cows may be harvested. However, cows accompanied by calves may not be taken July 31–Oct. 14	July 31–Mar. 31.
Federal public lands are closed to caribou hunting Aug. 1–Oct. 31, except by federally qualified subsistence users hunting under these regulations unless the Western Arctic Caribou herd population estimate exceeds 200,000 caribou.	
Federal public lands within a 10-mile-wide corridor (5 miles either side) along the Noatak River from the western boundary of Noatak National Preserve upstream to the confluence with the Cutler River; within the northern and southern boundaries of the Eli and Agashashok River drainages, respectively; and within the Squirrel River drainage are closed to caribou hunting except by federally qualified subsistence users hunting under these regulations.	
Sheep:	
Unit 23, south of Rabbit Creek, Kiyak Creek, and the Noatak River, and west of the Cutler and Redstone Rivers (Baird Mountains)—1 sheep by Federal registration permit. Federal public lands are closed to the taking of sheep except by federally qualified subsistence users hunting under these regulations.	May be announced.
Unit 23, north of Rabbit Creek, Kiyak Creek, and the Noatak River, and west of the Aniuk River (DeLong Mountains)—1 sheep by Federal registration permit.	May be announced.
Unit 23, remainder (Schwatka Mountains) except for that portion within Gates of the Arctic National Park and Preserve—1 sheep by Federal registration permit.	May be announced.
Unit 23, remainder (Schwatka Mountains), that portion within Gates of the Arctic National Park and Preserve—1 ram with 7/8 curl or larger horn.	Aug. 10–Sep. 20.
Unit 23, remainder (Schwatka Mountains), that portion within Gates of the Arctic National Park and Preserve—1 sheep.	Oct. 1–Apr. 30.
Moose:	
Unit 23, that portion north and west of and including the Singoalik River drainage, and all lands draining into the Kukpuk and Ipewik Rivers—1 antlered bull. No person may take a calf.	July 1–Dec. 31.
Unit 23, remainder—1 antlered bull. No person may take a calf.	Aug. 1–Dec. 31.
Musk ox:	

TABLE 23 TO PARAGRAPH (n)(23)—Continued

Harvest limits	Open season
Unit 23, south of Kotzebue Sound and west of and including the Buckland River drainage—1 bull by Federal drawing permit or State permit.	Aug. 1–Mar. 15.
Unit 23, Cape Krusenstern National Monument—1 bull by Federal drawing permit	Aug. 1–Mar. 15.
Unit 23, that portion north and west of the Kobuk River drainage—1 bull by State permit or Federal drawing permit.	Aug. 1–Mar. 15.
Unit 23, remainder	No open season.
Beaver: No limit	July 1–June 30.
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (blue and white phases): No limit	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases): No limit	Sep. 1–Mar. 15.
Hare, Alaska: 2 per day, 6 per season	Aug. 1–May 31.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Wolf: 15 wolves	Oct. 1–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Muskrat: No limit	July 1–June 30.
Grouse (spruce and ruffed): 15 per day, 30 in possession	Aug. 10–Apr. 30
Ptarmigan (rock, willow, and white-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit	July 1–June 30.
Coyote: No limit	Nov. 1–Apr. 15.
Fox, Arctic (blue and white phases): No limit	Nov. 1–Apr. 15.
Fox, red (including cross, black,and silver phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

(24) *Unit 24.* (i) Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage:

(A) Unit 24A consists of the Middle Fork of the Koyukuk River drainage upstream from but not including the Harriet Creek and North Fork Koyukuk River drainages, to the South Fork of the Koyukuk River drainage upstream from Squaw Creek, the Jim River Drainage, the Fish Creek drainage upstream from and including the Bonanza Creek drainage, to the 1,410 ft. peak of the hydrologic divide with the northern fork of the Kanuti Chalatna River at N lat. 66°33.303′ W long. 151°03.637′ and following the unnamed northern fork of the Kanuti Chalatna Creek to the confluence of the southern fork of the Kanuti Chalatna River at N lat. 66°27.090′ W long. 151°23.841′, 4.2 miles SSW (194 degrees true) of Clawanmenka Lake and following the unnamed southern fork of the Kanuti Chalatna Creek to the hydrologic divide with the Kanuti River drainage at N lat. 66°19.789′ W long. 151°10.102′, 3.0 miles ENE (79 degrees true) from the 2,055 ft. peak on that divide, and the Kanuti River drainage upstream from the confluence of an unnamed creek at N lat. 66°13.050′ W long. 151°05.864′, 0.9 miles SSE (155 degrees true) of a 1,980 ft. peak on that divide, and following that unnamed creek to the Unit 24 boundary on the hydrologic divide to the Ray River drainage at N lat. 66°03.827′ W long. 150°49.988′ at the 2,920 ft. peak of that divide.

(B) Unit 24B consists of the Koyukuk River Drainage upstream from Dog Island to the Subunit 24A boundary.

(C) Unit 24C consists of the Hogatza River Drainage, the Koyukuk River Drainage upstream from Batza River on the north side of the Koyukuk River and upstream from and including the Indian River Drainage on the south side of the Koyukuk River to the Subunit 24B boundary.

(D) Unit 24D consists of the remainder of Unit 24.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles, or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, and Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(B) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Kanuti Controlled Use Area, which consists of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area.

(C) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in the Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk at 64°52.58′ N lat., 157°43.10′ W long., then northerly to the confluences of the Honhosa and Kateel Rivers at 65°28.42′ N lat., 157°44.89′ W long., then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°57 N lat., 156°41 W long.) at 65°56.66′ N lat., 156°40.81′ W long., then easterly to the confluence of the forks of the Dakli River at 66°02.56′ N lat., 156°12.71′ W long., then easterly to the confluence of McLanes Creek and the Hogatza River at 66°00.31′ N lat., 155°18.57′ W long., then southwesterly to the crest of Hochandochtla Mountain at 65°31.87′ N lat., 154°52.18′ W long., then southwest to the mouth of Cottonwood Creek at 65°13.00′ N lat., 156° 06.43′ W long., then southwest to Bishop Rock (Yistletaw) at 64° 49.35′ N. lat., 157°21.73′ W long., then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning. However, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area. All hunters on the Koyukuk River passing the ADF&G-operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station.

(iii) You may hunt brown bear by State registration permit in lieu of a resident tag if you have obtained a State registration permit prior to hunting. You may not use aircraft in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears, or parts of bears. However, this prohibition does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30; and in the Koyukuk Controlled Use Area, you may also use bait to hunt black bear Sep. 1–25.

(B) Arctic fox, incidentally taken with a trap or snare intended for red fox, may be used for subsistence purposes.

(C) If you are a resident of Units 24A, 24B, or 24C, during the dates of Oct. 15–Apr. 30, you may use an artificial light when taking a black bear, including a sow accompanied by cub(s), at a den site within the portions of Gates of the Arctic National Park and Preserve that are within Units 24A, 24B, or 24C.

TABLE 24 TO PARAGRAPH (n)(24)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown:	
Unit 24B, that portion within Gates of the Arctic National Park—2 bears by State registration permit	Aug. 10–June 30
Unit 24 remainder—1 bear by State registration permit	Aug. 10–June 30
Caribou:	
Unit 24A, that portion south of the south bank of the Kanuti River—1 caribou	Aug. 10–Mar. 31.
Unit 24B, that portion south of the south bank of the Kanuti River, upstream from and including that portion of the Kanuti-Kilolitna River drainage, bounded by the southeast bank of the Kodosin-Nolitna Creek, then downstream along the east bank of the Kanuti-Kilolitna River to its confluence with the Kanuti River—1 caribou.	Aug. 10–Mar. 31.
Unit 24A remainder—5 caribou per day as follows:	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	July 15–Apr. 30.
Unit 24B remainder—15 caribou, only 1 may be a cow, as follows:	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	July 15–Apr. 30.
Units 24C, 24D—15 caribou, only 1 may be a cow, as follows:	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14. Feb. 1–June 30.
Cows may be harvested	Sep. 1–Mar. 31.
Sheep:	
Units 24A and 24B (Anaktuvuk Pass residents only), that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes, and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Units 24A and 24B (excluding Anaktuvuk Pass residents), those portions within the Gates of the Arctic National Park—1 ram, by Federal registration permit only, with exception for residents of Alatna and Allakaket who will report by a National Park Service community harvest system.	Aug. 1–Apr. 30.
Federal public lands within Unit 24A are closed to the taking of sheep for the 2024–2025 and 2025–2026 regulatory years for all users.	
Unit 24A, except that portion within the Gates of the Arctic National Park—1 ram by Federal registration permit only.	Aug. 20–Sep. 30.
Federal public lands are closed to the taking of sheep for the 2024–2025 and 2025–2026 regulatory years for all users.	
Unit 24, remainder—1 ram with 7/8 curl or larger horn	Aug. 10–Sep. 20.
Moose:	

TABLE 24 TO PARAGRAPH (n)(24)—Continued

Harvest limits	Open season
Unit 24A—1 antlered bull by Federal registration permit	Aug. 25–Oct. 1.
Unit 24B, that portion within the John River Drainage—1 moose by State harvest ticket	Aug. 1–Dec. 14.
Or	
1 antlered bull by State registration permit	Dec. 15–Apr. 15.
Unit 24B, remainder—1 antlered bull by State harvest ticket	Aug. 25–Oct. 1.
Or	
1 antlered bull by State registration permit	Dec. 15–Apr. 15.
Federal public lands in the Kanuti Controlled Use Area, as described in Federal regulations, are closed to taking of moose Apr. 16–Dec. 14, except by federally qualified subsistence users hunting under these regulations.	
Units 24C and 24D, that portion within the Koyukuk Controlled Use Area and Koyukuk National Wildlife Refuge—1 bull.	Sep. 1–25.
1 antlerless moose by Federal permit if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager and BLM Field Office Manager Central Yukon Field Office. Harvest of cow moose accompanied by calves is prohibited. A harvestable surplus of cows will be determined for a quota.	Mar. 1–5 to be announced.
Or	
1 antlered bull by Federal permit, if there is no Mar. 1–5 season and if authorized by announcement by the Koyukuk/Nowitna National Wildlife Refuge Manager and BLM Field Office Manager Central Yukon Field Office. Harvest of cow moose accompanied by calves is prohibited. Announcement for the March and April seasons and harvest quotas will be made after consultation with the ADF&G Area Biologist and the Chairs of the Western Interior Alaska Subsistence Regional Advisory Council, and the Middle Yukon and Koyukuk River Fish and Game Advisory Committees.	Apr. 10–15 to be announced.
Unit 24C, remainder and Unit 24D, remainder—1 antlered bull. During the Sep. 5–25 season, a State registration permit is required.	Aug. 25–Oct. 1.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare, snowshoe: No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 15 wolves; however, no more than 5 wolves may be taken prior to Nov. 1	Aug. 10–Apr. 30.
Wolverine: 5 wolverine; however, no more than 1 wolverine may be taken prior to Nov. 1	Sep. 1–Mar. 31.
Grouse (spruce, ruffed, and sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (rock and willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 1–Mar. 31.
Fox, red (including cross, black, and silver phases): No limit	Nov. 1–Feb. 28.
Lynx:	
Unit 24A—no limit	Nov. 1–Mar 31.
Units 24B, 24C, and 24D—no limit	Nov. 1–Feb. 28.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Mar. 31.

(25) *Unit 25.* (i) Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River:

(A) Unit 25A consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old Crow River drainage.

(B) Unit 25B consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River.

(C) Unit 25C consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20E boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage.

(D) Unit 25D consists of the remainder of Unit 25.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, and Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(B) The Arctic Village Sheep Management Area consists of that portion of Unit 25A north and west of Arctic Village, which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Red Sheep Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into two roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 62 miles along the divide to the headwaters of the most northerly tributary of Red Sheep Creek then follows southerly along the divide designating the eastern extreme of the Red Sheep Creek drainage then to the confluence of Red Sheep Creek and the East Fork Chandalar River.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30 and between August 1 and September 25; in Unit 25D you may use bait to hunt brown bear between April 15 and June 30 and between August 1 and September 25; you may use bait to hunt wolves on FWS and BLM lands.

(B) You may take caribou and moose from a boat moving under power in Unit 25.

(C) The taking of bull moose outside the seasons provided in this part for food in memorial potlatches and traditional cultural events is authorized in Unit 25D west provided that:

(*1*) The person organizing the religious ceremony or cultural event contacts the Refuge Manager, Yukon Flats National Wildlife Refuge, prior to taking or attempting to take bull moose and provides to the Refuge Manager the name of the decedent, the nature of the ceremony or cultural event, number to be taken, and the general area in which the taking will occur.

(*2*) Each person who takes a bull moose under this section must submit a written report to the Refuge Manager, Yukon Flats National Wildlife Refuge, not more than 15 days after the harvest specifying the harvester's name and address, and the date(s) and location(s) of the taking(s).

(*3*) No permit or harvest ticket is required for taking under this section; however, the harvester must be an Alaska rural resident with customary and traditional use in Unit 25D west.

(*4*) Any moose taken under this provision counts against the annual quota of 60 bulls.

TABLE 25 TO PARAGRAPH (n)(25)

Harvest limits	Open season
Hunting	
Bear, black:	
Units 25A, 25B, and 25C—3 bears or 3 bears by State community harvest permit	July 1–June 30.
	July 1–June 30.
Unit 25D—5 bears	July 1–June 30.
Bear, brown:	
Units 25A and 25B—1 bear	Aug. 10–June 30.
Unit 25C—1 bear	Sep. 1–May 31.
Unit 25D—2 bears every regulatory year	July 1–June 30.
Caribou:	
Unit 25A—in those portions west of the east bank of the East Fork of the Chandalar River extending from its confluence with the Chandalar River upstream to Guilbeau Pass and north of the south bank of the mainstem of the Chandalar River at its confluence with the East Fork Chandalar River west (and north of the south bank) along the West Fork Chandalar River—10 caribou. However, only bulls may be taken May 16–June 30.	July 1–June 30.
Unit 25C—up to 3 caribou, to be announced, by a joint Federal/State registration permit	Fall season between Aug. 1 and Sep. 30, to be announced.
	Winter season between Oct. 21 and Mar. 31, to be announced.
Unit 25D, that portion of Unit 25D drained by the west fork of the Dall River west of 150° W long.—1 bull	Aug. 10–Sep. 30.
	Dec. 1–31.
Units 25A remainder, 25B, and Unit 25D, remainder—10 caribou	July 1–Apr. 30.
Sheep:	
Unit 25A, that portion within the Dalton Highway Corridor Management Area	No open season.
Units 25A, Arctic Village Sheep Management Area—2 rams by Federal registration permit only	Aug. 10–Apr. 30.

TABLE 25 TO PARAGRAPH (n)(25)—Continued

Harvest limits	Open season
Federal public lands are closed to the taking of sheep except by federally qualified subsistence users hunting under these regulations.	
Unit 25A remainder—3 sheep by Federal registration permit only	Aug. 10–Apr. 30.
Units 25B, 25C, and 25D—1 ram with full-curl horn or larger	Aug. 10–Sep. 20.
Moose:	
Unit 25A, that portion within the Coleen, Firth, and Old Crow River drainages—1 antlered bull	Aug. 25–Sep. 25. Dec. 1–20.
Unit 25A remainder—1 antlered bull	Aug. 25–Sep. 25. Dec. 1–10.
Unit 25B, that portion within Yukon-Charley National Preserve—1 bull	Aug. 20–Oct. 15.
Unit 25B, that portion within the Porcupine River drainage upstream from, but excluding the Coleen River drainage—1 antlered bull.	Aug. 25–Oct. 15. Dec. 1–10.
Unit 25B, that portion, other than Yukon-Charley Rivers National Preserve, draining into the north bank of the Yukon River upstream from and including the Kandik River drainage, including the islands in the Yukon River—1 antlered bull.	Sep. 5–Oct. 15. Dec. 1–15.
Unit 25B remainder—1 antlered bull	Aug. 25–Oct. 15. Dec. 1–15.
Unit 25C—1 antlered bull	Aug. 20–Oct. 15.
Unit 25D (west), that portion lying west of a line extending from the Unit 25D boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek, and Lower Mouth of Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzic River, then upstream along the west bank of the Hadweenzic River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25D boundary—1 bull by a Federal registration permit.	Aug. 25–Feb. 28.
Permits will be available in the following villages: Beaver (25 permits), Birch Creek (10 permits), and Stevens Village (25 permits). Permits for residents of 25D (west) who do not live in one of the three villages will be available by contacting the Yukon Flats National Wildlife Refuge Office in Fairbanks or a local Refuge Information Technician.	
Moose hunting on public land in Unit 25D (west) is closed at all times except for residents of Unit 25D (west) hunting under these regulations. The moose season will be closed by announcement of the Refuge Manager Yukon Flats NWR when 60 moose have been harvested in the entirety (from Federal and non-Federal lands) of Unit 25D (west).	
Unit 25D, remainder—1 antlered moose	Aug. 25–Oct. 15. Dec. 1–20.
Beaver:	
Units 25A, 25B, and 25D—1 beaver per day; 1 in possession	June 11–Aug. 31.
Units 25A, 25B, and 25D—no limit	Sep. 1–June 10.
Unit 25C	No open season.
Coyote: 10 coyotes	Aug. 10–Apr. 30.
Fox, red (including cross, black, and silver phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sep. 1–Mar. 15.
Hare, snowshoe: No limit	July 1–June 30.
Lynx:	
Unit 25C—2 lynx	Dec. 1–Jan. 31.
Unit 25, remainder—2 lynx	Nov. 1–Feb. 28.
Muskrat:	
Units 25B and 25C, that portion within Yukon-Charley Rivers National Preserve—No limit	Nov. 1–June 10.
Unit 25, remainder	No open season.
Wolf:	
Unit 25A—No limit	Aug. 10–Apr. 30.
Unit 25, remainder—10 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sep. 1–Mar. 31.
Grouse (spruce, ruffed, and sharp-tailed):	
Unit 25C—15 per day, 30 in possession	Aug. 10–Mar. 31.
Unit 25, remainder—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (rock and willow):	
Unit 25C, those portions within 5 miles of Route 6 (Steese Highway)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 25, remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Beaver:	
Unit 25C—No limit	Nov. 1–Apr. 15.
Unit 25, remainder—50 beavers	Nov. 1–Apr. 15.
Coyote: No limit	Oct. 1–Apr. 30.
Fox, red (including cross, black, and silver phases): No limit	Nov. 1–Feb. 28.
Fox, Arctic: No limit	Nov. 1–last day of Feb.
Lynx: No limit	Nov. 1–Mar. 31.
Marten:	
Unit 25B—No limit	Nov. 1–Mar. 15.
Unit 25, remainder—No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.

TABLE 25 TO PARAGRAPH (n)(25)—Continued

Harvest limits	Open season
Muskrat: No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Oct. 1–Apr. 30.
Wolverine:	
Unit 25C—No limit	Nov. 1–Mar. 31.
Unit 25, remainder—No limit	Nov. 1–Mar. 31.

(26) *Unit 26.* (i) Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska–Canada border, including the Firth River drainage within Alaska:

(A) Unit 26A consists of that portion of Unit 26 lying west of the Itkillik River drainage and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean.

(B) Unit 26B consists of that portion of Unit 26 east of Unit 26A, west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River.

(C) Unit 26C consists of the remainder of Unit 26.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) You may not use aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose during the periods July. 1–Sep. 14 and Jan. 1–Mar. 31 in Unit 26A; however, this does not apply to transportation of moose hunters, their gear, or moose parts by aircraft between publicly owned airports.

(B) You may not use firearms, snowmobiles, licensed highway vehicles or motorized vehicles, except aircraft and boats, in the Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending 5 miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor only for subsistence taking of wildlife.

(iii) You may not use aircraft in any manner for brown bear hunting, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iv) Unit-specific regulations:

(A) You may take caribou from a boat moving under power in Unit 26.

(B) In addition to other restrictions on method of take found in this section, you may also take swimming caribou with a firearm using rimfire cartridges.

(C) In Kaktovik, a federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take sheep or musk ox on his or her behalf. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

(D) For the DeLong Mountain sheep hunts, a federally qualified subsistence user (recipient) may designate another federally qualified subsistence user to take sheep on his or her behalf. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for only one recipient in the course of a season and may have both his and the recipient's harvest limits in his/her possession at the same time.

TABLE 26 TO PARAGRAPH (n)(26)

Harvest limits	Open season
Hunting	
Bear, black: 3 bears	July 1–June 30.
Bear, brown:	
Unit 26A, that portion within Gates of the Arctic National Park—2 bear by State subsistence registration permit.	July 1–June 30.
Unit 26A remainder—1 bear by State subsistence registration permit	July 1–June 30.
Unit 26B—1 bear	Jan. 1–Dec. 31.
Unit 26C—1 bear	Aug. 10–June 30.
Caribou:	
Unit 26A—west of the Colville River drainage upstream from the Nuka River and drainages of the Chukchi Sea, south and west of and including the Kuk and Kugrua River drainages—15 caribou, only 1 may be a cow, by State registration permit as follows:	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 14. Dec. 6–June 30.
Cows may be harvested; however, cows accompanied by calves may not be taken July 16–Oct. 15	July 16–Mar. 15.
Unit 26A remainder—5 caribou per day by State registration permit as follows:	
Calves may not be taken.	
Bulls may be harvested	July 1–Oct. 15. Dec. 6–June 30.

TABLE 26 TO PARAGRAPH (n)(26)—Continued

Harvest limits	Open season
Up to 3 cows per day may be harvested; however, cows accompanied by calves may not be taken July 16–Oct. 15.	July 16–Mar. 15.
Unit 26B, that portion south of 69° 30′ N lat. and west of the Dalton Highway—5 caribou per day as follows:	
Bulls may be harvested	July 1–Oct. 14. Dec. 10–June 30.
Cows may be harvested	July 1–Apr. 30.
Unit 26B remainder—5 caribou per day as follows:	
Bulls may be harvested	July 1–June 30.
Cows may be harvested	July 1–May 15.
Unit 26C—10 caribou per day	July 1–Apr. 30.
You may not transport more than 5 caribou per regulatory year from Unit 26 except to the community of Anaktuvuk Pass.	
Sheep:	
Units 26A and 26B (Anaktuvuk Pass residents only), that portion within the Gates of the Arctic National Park—community harvest quota of 60 sheep, no more than 10 of which may be ewes and a daily possession limit of 3 sheep per person, no more than 1 of which may be a ewe.	July 15–Dec. 31.
Unit 26A (excluding Anaktuvuk Pass residents), those portions within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 26A, that portion west of Howard Pass and the Etivluk River (DeLong Mountains)—1 sheep by Federal registration permit.	Season may be announced.
Unit 26B, that portion within the Dalton Highway Corridor Management Area—1 ram with 7/8 curl or larger horn by Federal registration permit only.	Aug. 10–Sep. 20.
Federal public lands in Unit 26B west of the Sagavanirktok River are closed to the taking of sheep for the 2024–2025 and 2025–2026 regulatory years for all users.	
Unit 26A, remainder and 26B, remainder, including the Gates of the Arctic National Preserve—1 ram with 7/8 curl or larger horn.	Aug. 10–Sep. 20.
Federal public lands in Unit 26B west of the Sagavanirktok River are closed to the taking of sheep for the 2024–2025 and 2025–2026 regulatory years for all users.	
Unit 26C—3 sheep per regulatory year; the Aug. 10–Sep. 20 season is restricted to 1 ram with 7/8 curl or larger horn. A Federal registration permit is required for the Oct. 1–Apr. 30 season.	Aug. 10–Sep. 20. Oct. 1–Apr. 30.
Moose:	
Unit 26A, that portion of the Colville River drainage upstream from and including the Anaktuvuk River drainage—1 bull.	Aug. 1–Sep. 14.
Unit 26A, that portion of the Colville River drainage upstream from and including the Anaktuvuk River drainage—1 moose; however, you may not take a calf or a cow accompanied by a calf.	Feb. 15–Apr. 15.
Unit 26A, that portion west of the eastern shore of Admiralty Bay where the Alaktak River enters, following the Alaktak River to 155°00′ W longitude excluding the Colville River drainage—1 moose; however, you may not take a calf or a cow accompanied by a calf.	July 1–Sep. 14.
Unit 26A, remainder—1 bull	Aug. 1–Sep. 14.
Unit 26B, excluding the Canning River drainage—1 bull	Sep. 1–14.
Units 26B, remainder and 26C—1 moose by Federal registration permit by residents of Kaktovik only. Federal public lands are closed to the taking of moose except by a Kaktovik resident holding a Federal registration permit and hunting under these regulations.	May be announced.
Musk ox:	
Unit 26A, that portion west of the eastern shore of Admiralty Bay where the Alaktak River enters, following the Alaktak River to 155°00′ W longitude south to the Unit 26A border—1 musk ox by Federal drawing permit.	Aug.1–Mar. 15.
Units 26A remainder and 26B	No open Federal season.
Unit 26C—1 musk ox by Federal registration permit only	May be announced between July 15–Mar. 31.
Public lands are closed to the taking of musk ox, except by rural Alaska residents of the village of Kaktovik hunting under these regulations.	
Coyote: 2 coyotes	Sep. 1–Apr. 30.
Fox, Arctic (blue and white phases): 2 foxes	Sep. 1–Apr. 30.
Fox, red (including cross, black, and silver phases):	
Units 26A and 26B—10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sep. 1–Mar. 15.
Unit 26C—10 foxes	Nov. 1–Apr. 15.
Hare (snowshoe and tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Apr. 15.
Wolf: 15 wolves	Aug. 10–Apr. 30.
Wolverine: 5 wolverine	Sep. 1–Mar. 31.
Ptarmigan (rock and willow): 20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping	
Coyote: No limit	Nov. 1–Apr. 15.
Fox, Arctic (blue and white phases): No limit	Nov. 1–Apr. 15.
Fox, red (including cross, black, and silver phases): No limit	Nov. 1–Apr. 15.
Lynx: No limit	Nov. 1–Apr. 15.
Marten: No limit	Nov. 1–Apr. 15.
Mink and Weasel: No limit	Nov. 1–Jan. 31.
Muskrat: No limit	Nov. 1–June 10.

TABLE 26 TO PARAGRAPH (n)(26)—Continued

Harvest limits	Open season
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

Crystal Leonetti

Director, DOI Office of Subsistence Management.

Gregory Risdahl,

Subsistence Program Leader, USDA–Forest Service.

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Part VI

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 660

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 33; 2025–26 Biennial Specifications and Management Measures; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 240802–0211]

RIN 0648–BN08

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 33; 2025–26 Biennial Specifications and Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; availability of a draft environmental assessment; request for comments.

SUMMARY: This proposed rule would establish the 2025–26 harvest specifications for groundfish caught in the U.S. exclusive economic zone (EEZ) seaward of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA) and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). This proposed rule would also revise management measures intended to keep the total annual catch of each groundfish stock or stock complex within the annual catch limits. These proposed measures are intended to help prevent overfishing, rebuild overfished stocks, achieve optimum yield, and ensure that management measures are based on the best scientific information available. This proposed rule would also make minor corrections (*e.g.* correcting grammar, removing outdated regulations, revisions for clarity) to the regulations. Additionally, this proposed rule announces the receipt of exempted fishing permit (EFP) applications. NMFS has made a preliminary determination that these applications warrant further consideration and is requesting public comment on these applications. This proposed rule also would implement amendment 33 to the PCGFMP, which would establish a rebuilding plan for California quillback rockfish and revise the allocation framework for shortspine thornyhead. In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, NMFS also announces the availability of a draft Environmental Assessment (EA) that analyzes the potential effects of the associated proposed rule.

DATES: Comments must be received no later than September 30, 2024.

ADDRESSES: Submit your comments on the proposed rule, draft EA, and EFP applications, identified by NOAA–NMFS–2024–0065, by the following method:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2024–0065 in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments. The EFP applications will be available under Supporting Documents through the same link.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and NMFS will post them for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Please specify whether the comments provided are associated with the proposed rule, draft EA, or EFP applications.

Please submit written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule and subject to the Paperwork Reduction Act (PRA) by email to *WCR.HMS@noaa.gov* and to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–7285.

Electronic Access

This rulemaking is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov/.* The draft Analysis, which includes an EA that addresses the NEPA, as well analyses that address Presidential Executive Order 12866, the Regulatory Flexibility Act (RFA), and the statutory requirements of the Magnuson-Stevens Act is accessible via the internet at the NMFS West Coast Region website at *https://www.fisheries.noaa.gov/region/west-coast* and the Pacific Fishery Management Council's (Council) website at *http://www.pcouncil.org.* The final 2024 Stock Assessment and Fishery Evaluation (SAFE) report for Pacific Coast groundfish, as well as the SAFE reports for previous years, are available from the Council's website at *http://www.pcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Lynn Massey, Fishery Management Specialist, at 562–900–2060 or *lynn.massey@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Pacific Coast groundfish fishery in the U.S. EEZ seaward of Washington, Oregon, and California is managed under the PCGFMP. The Council developed the PCGFMP pursuant to the MSA (16 U.S.C. 1801 *et seq.*). The Secretary of Commerce approved the PCGFMP and implemented the provisions of the plan through Federal regulations at 50 CFR part 660, subparts C through G. The PCGFMP manages more than 90 species of roundfish, flatfish, rockfish, sharks, and skates.

Chapter 5 of the PCGFMP requires the Council to assess the biological, social, and economic conditions of the Pacific Coast groundfish fishery and use this information to develop harvest specifications and management measures at least biennially. This proposed rule is based on the Council's final recommendations for harvest specifications and management measures for the 2025–26 biennium made at its April and June 2024 meetings.

The Council deemed the proposed regulations necessary and appropriate to implement these actions in a July 29, 2024, letter from Council Executive Director, Merrick Burden, to Regional Administrator Jennifer Quan. Under the MSA, NMFS is required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. We are seeking comment on the proposed regulations in this action and whether they are consistent with the PCGFMP, the MSA and its National Standards, and other applicable law.

NMFS published a Notice of Availability (NOA) to announce the proposed amendment 33 to the PCGFMP (referred to interchangeably as ''the amendment'') on August 2, 2024 (89 FR 63153). The NOA requests public review and comment on proposed changes to the Council fishery management plan document (89 FR 63153; August 2, 2024). Public comments are being solicited on the amendment through October 1, 2024,

the end of the comment period for the NOA. Public comments on the proposed rule must be received by the end of the comment period on the amendment, as published in the NOA, to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on the amendment, whether specifically directed to the amendment, or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

A. Specification and Management Measure Development Process

In 2023, the Northwest Fisheries Science Center (NWFSC) conducted full stock assessments for black rockfish (all areas), copper rockfish (California areas), petrale sole, and canary rockfish. The NWFSC conducted length-based data moderate assessments for shortspine thornyhead and rex sole. Additionally, the NWFSC conducted catch-only assessment updates for widow rockfish and yelloweye rockfish, a limited update assessment for sablefish, and catch-only projections for chilipepper rockfish and yellowtail rockfish north of 40°10′ north latitude (N lat.). The NWFSC did not update assessments for the remaining stocks, so harvest specifications for these stocks are based on assessments from previous years. The full stock assessments used to set catch limits for this biennium are available on the Council's website at *https://www.pcouncil.org/.*

The Council's stock assessment review panel (STAR panel) reviewed the stock assessments, including assessments on stocks for which some biological indicators are available, as described below, for technical merit, and to determine that each stock assessment document was sufficiently complete. Finally, the Council's Scientific and Statistical Committee (SSC) reviewed the stock assessments and STAR panel reports and made its recommendations to the Council (Agenda Item G.2, September 2023 Council Meeting; Agenda Item E.2, November 2023 Council Meeting).

The Council considered the new stock assessments, stock assessment updates, catch-only updates, public comment, recommendations from the SSC, and advice from its advisory bodies over the course of six Council meetings during development of its recommendations for the 2025–26 harvest specifications and management measures. At each Council meeting between June 2023 and June 2024, the Council made a series of decisions and recommendations that were, in some cases, refined after further analysis and discussion. Agenda Item H.7, Attachment 1, June 2023 describes the Council's meeting schedule for developing the 2025–26 biennial harvest specifications. Additionally, detailed information, including the supporting documentation the Council considered at each meeting, is available at the Council's website at *www.pcouncil.org.*

The 2025–26 biennial management cycle is the fifth cycle following PCGFMP amendment 24 (80 FR 12567, March 10, 2015), which established default harvest control rules and was analyzed through an Environmental Impact Statement (EIS) (Final Environmental Impact Statement for Pacific Coast Groundfish Harvest Specifications and Management Measures for 2015–2016 and Biennial Periods Thereafter, and amendment 24 to the PCGFMP, published January 2015). The EIS described the ongoing implementation of the PCGFMP and the default harvest control rules. Under amendment 24, the default harvest control rules used to determine the previous biennium's harvest specifications (*i.e.,* overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs)) are applied automatically to the best scientific information available to determine the future biennium's harvest specifications. NMFS implements harvest specifications based on the default harvest control rules used in the previous biennium unless the Council makes a recommendation to deviate from the default. Therefore, this rulemaking would implement the default harvest control rules, consistent with the last biennium (*i.e.,* 2023–24), for most stocks, and discusses Council-recommended departures from the defaults. The draft EA supporting this action identifies the preferred harvest control rules, management measures, and other management changes that were not described in the 2015 EIS and will be posted on the NMFS West Coast Region web page (see Electronic Access).

Information regarding the OFLs, ABCs, and ACLs proposed for groundfish stocks and stock complexes in 2025–26 is presented below, followed by a discussion of the proposed management measures for commercial and recreational groundfish fisheries.

II. Proposed Harvest Specifications

This proposed rule would set 2025–26 harvest specifications and management measures for the 90+ groundfish stocks or management units which currently have ACLs or ACL contributions to stock complexes managed under the PCGFMP, except for Pacific whiting. Pacific whiting harvest specifications are established annually through a separate bilateral process with Canada.

The proposed OFLs, ABCs, and ACLs are based on the best available biological and socioeconomic data, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The PCGFMP specifies a series of three stock categories for the purpose of setting maximum sustainable yield (MSY),[1] OFLs, ABCs, ACLs, and rebuilding standards. Category 1 represents the highest level of information quality available, while Category 3 represents the lowest. Category 1 stocks are the relatively few stocks for which the NWFSC can conduct a ''data rich'' quantitative stock assessment that incorporates catch-at-age, catch-at-length, or other data. The SSC can generally calculate OFLs and overfished/rebuilding thresholds for these stocks, as well as ABCs, based on the uncertainty of the biomass estimated within an assessment or the variance in biomass estimates between assessments for all stocks in this category. The set of Category 2 stocks includes a large number of stocks for which some biological indicators are available, yet status is based on a ''data moderate'' quantitative stock assessment. The Category 3 stocks include minor stocks which are caught, but for which there is, at best, only information on landed biomass. For stocks in this category, there is limited data available for the SSC to quantitatively determine MSY, OFL, or an overfished threshold. Typically, catch-based methods (*e.g.,* depletion-based stock reduction analysis, depletion corrected average catch, and average catches) are used to determine the OFL for Category 3 stocks. A detailed description of each of these categories can be found in Section 4.2 of the PCGFMP.

A. Proposed OFLs for 2025 and 2026

The OFL serves as the maximum amount of fish that can be caught in a year without resulting in overfishing. Overfishing occurs when a stock's harvest rate, denoted as $F_{x\%}$, is set

[1] MSY is the largest long-term average catch that can be taken from a fish stock under prevailing environmental and fishery conditions.

higher than the rate that produces the stock's MSY. The SSC derives OFLs for groundfish stocks with stock assessments by applying the harvest rate to the current estimated biomass (B). Harvest rates represent the rates of fishing mortality (F) that will reduce the female spawning potential ratio (SPR) to X percent of its unfished level. The PCGFMP defines SPR as the average fecundity of a recruit over its lifetime when the stock is fished divided by the average fecundity of a recruit over its lifetime when the stock is unfished. The SPR is based on the principle that a certain biomass of fish has to survive in order to spawn and replenish the stock at a sustainable level. As an example, a harvest rate of $F_{40\%}$ means the harvest rate that would fish 60 percent of the population, thereby reducing the stock to 40 percent of its unfished level. $F_{40\%}$ is more aggressive than $F_{45\%}$ or $F_{50\%}$ harvest rates because $F_{40\%}$ allows more fishing mortality on a stock (as it allows a harvest rate that would reduce the stock to 40 percent of its unfished level, while $F_{45\%}$ or $F_{50\%}$ would reduce the stock to 45 percent and 50 percent of its unfished level). The OFL does not account for scientific or management uncertainty; therefore, the SSC typically recommends an ABC that is lower than the OFL in order to account for this uncertainty. Usually, the greater the amount of scientific uncertainty, the lower the ABC is set compared to the OFL.

For 2025–26, the Council maintained its policy of using a default harvest rate as a proxy for the fishing mortality rate that is expected to achieve MSY (F_{MSY}). The Council also maintained the same default harvest rate proxies as used in the 2023–24 biennium, based on the SSC's recommendations: $F_{30\%}$ for flatfish (meaning an SPR harvest rate that would reduce the stock to 30 percent of its unfished level), $F_{50\%}$ for rockfish (including longspine and shortspine thornyheads), $F_{50\%}$ for elasmobranchs, and $F_{45\%}$ for other groundfish such as sablefish and lingcod. For unassessed stocks, the Council recommended using a historical catch-based approach (*e.g.,* average catch, depletion-corrected average catch, or depletion-based stock reduction analysis) to set the OFL. See Tables 1a and 2a to Part 660, subpart C in the proposed regulatory text supporting this rulemaking for the proposed 2025–26 OFLs. The SAFE document for 2024 includes a detailed description of the scientific basis for all of the SSC-recommended OFLs proposed in this rulemaking and is available at the Council's website at *www.pcouncil.org.*

B. Proposed ABCs for 2025 and 2026

The ABC is the stock or stock complex's OFL reduced by an amount associated with scientific uncertainty. The SSC-recommended P star (P*)-sigma (σ) approach determines the amount by which the OFL is reduced to account for this uncertainty. Under this approach, the SSC recommends a σ value. The σ value is generally based on the scientific uncertainty in the biomass estimates generated from stock assessments and is usually related to the stock category. After the SSC determines the appropriate σ value, the Council chooses a P* based on its chosen level of risk aversion to address the consequences of the stock being elsewhere within the uncertainty represented by σ. A P* of 0.5 equates to no additional reduction beyond the σ value reduction. The PCGFMP specifies that the upper limit of P* will be 0.45, thus always ensuring at least some additional reduction beyond the σ value reduction. The P*- σ approach is discussed in detail in the proposed and final rules for the 2011–12 biennial harvest specifications and management measures (75 FR 67810, November 3, 2010; 76 FR 27508, May 11, 2011) and the 2013–14 biennial harvest specifications and management measures (77 FR 67974, November 12, 2012; 78 FR 580, January 3, 2013).

The SSC quantified major sources of scientific uncertainty in the estimates of OFLs and generally recommended a σ value of 0.5 for Category 1 stocks, a σ value of 1.0 for Category 2 stocks, and a σ value of 2.0 for Category 3 stocks. For Category 2 and 3 stocks, there is greater scientific uncertainty in the OFL estimate because the assessments for these stocks are informed by less data than the assessments for Category 1 stocks. Therefore, the scientific uncertainty buffer is generally greater than that recommended for stocks with data-rich stock assessments. Assuming the same P* is applied, a larger σ value results in a larger reduction from the OFL. For 2025–26, the ABC recommendations are consistent with the general policy of using the SSC-recommended σ values for each stock category.

For 2025–26, the Council maintained the P* policies it established for the previous biennium for most stocks. The Council recommended using P* values of 0.45 for all individually managed Category 1 stocks, except yelloweye rockfish. Combining the Category 1 σ value of 0.5 with the P* value of 0.45 results in a reduction of 6.1 percent from the OFL when deriving the ABC. For Category 2 stocks, the Council's general policy was to apply a P* of 0.40, with a few exceptions. The Council recommended applying a P* of 0.45 for big skate, English sole, lingcod south of 40°10′ N lat., lingcod north of 40°10′ N lat., longnose skate, Pacific ocean perch, shortspine thornyhead, blue rockfish in the Oregon blue/deacon/black rockfish complex, and all Category 2 stocks in the Nearshore rockfish complexes, Shelf rockfish complexes, and Slope rockfish complexes. When combined with the σ values of 1.0 for Category 2, a P* value of 0.45 corresponds to an 11.8 percent reduction from the OFL and a P* value of 0.40 corresponds to a 22.4 percent reduction. For Category 3 stocks, the Council's general policy was to apply a P* value of 0.45, except the Council recommended a P* value of 0.40 for cowcod between 40°10′ N lat. and 34°27′ N lat., Pacific cod, starry flounder, and all stocks in the Other Flatfish complex except rex sole, which was upgraded to a Category 2 stock with a P* of 0.45. When combined with the σ values of 2.0 for Category 3, a P* value of 0.45 corresponds to 22.2 percent reduction from the OFL and a P* value of 0.40 corresponds to a 39.8 percent reduction. See tables 8 and 9 of Agenda Item F.6 Attachment 2 from the June 2024 Council meeting (hereafter interchangeably referred to as the Council Analytical Document) for the full description of σ and P* values by stock (see tables 1a and 2a to Part 660, Subpart C in the proposed regulatory text of this proposed rule for the proposed 2025–26 ABCs).

C. Proposed ACLs for 2025 and 2026

The Council recommends ACLs for each groundfish stock or management unit in the PCGFMP. To determine the ACL for each stock, the Council will determine the best estimate of current stock abundance and its relation to the precautionary and overfished/rebuilding thresholds. Under the PCGFMP, the biomass level that produces MSY, or B_{MSY}, is defined as the precautionary threshold. When the biomass for an assessed Category 1 or 2 stock falls below B_{MSY}, the ACL is set below the ABC using a harvest rate reduction to help the stock return to the B_{MSY} level, which is the management target for groundfish stocks. If a stock biomass is larger than B_{MSY}, the ACL may be set equal to the ABC, or the ACL may be set below the ABC to address conservation objectives, socioeconomic concerns, management uncertainty, or other factors necessary to meet management objectives. The overfished/rebuilding threshold is 25 percent of the estimated

unfished biomass level for non-flatfish stocks or 50 percent of B_{MSY}, if known. The overfishing/rebuilding threshold for flatfish stocks is 12.5 percent of the estimated unfished biomass level. When a stock is below B_{MSY} (*i.e.,* the precautionary threshold) but above the overfishing/rebuilding threshold, it is considered to be in the precautionary zone.

Under PCGFMP amendment 24, the Council set up default harvest control rules, which established default policies that would be applied to the best available scientific information to set ACLs each biennial cycle, unless the Council has reasons to diverge from that harvest control rule. A complete description of the default harvest control rules for setting ACLs is described in the proposed and final rule for the 2015–16 harvest specifications and management measures (80 FR 687, January 6, 2015) and PCGFMP amendment 24 (80 FR 12567, March 10, 2015).

The PCGFMP defines the 40–10 harvest control rule for stocks with a B_{MSY} proxy of $B_{40\%}$ that are in the precautionary zone as the standard reduction. The analogous harvest control rule with the standard reduction for assessed flatfish stocks is the 25–5 harvest control rule for flatfish stocks with a B_{MSY} proxy of $B_{25\%}$. The further the stock biomass is below the precautionary threshold, the greater the reduction in ACL relative to the ABC. If $B_{10\%}$ for a stock with a B_{MSY} proxy of $B_{40\%}$ is reached, or if $B_{5\%}$ for a stock with a B_{MSY} proxy of $B_{25\%}$ is reached, then ACL would be set at zero.

Under the PCGFMP, harvest control rules are typically applied at the component species level for stock complexes to calculate ACLs. Resulting contribution values of each component species, or ACL contributions, are summed to equal the stock complex ACLs. For example, the ACL contribution of black rockfish off of Oregon contributes to the overall ACL for the Oregon black/deacon/blue rockfish stock complex. Under the PCGFMP, the Council may recommend setting the ACL at a different level than what the default harvest control rules specify as long as the ACL does not exceed the ABC and complies with the requirements of the MSA (see the Analysis for information on the MSA). For most of the stocks and stock complexes managed with harvest specifications for 2025–26, the Council chose to maintain the default harvest control rules from the previous biennial cycle. Table 1 presents a summary of the proposed changes to default harvest control rules for certain stocks for 2025–26. Each of these changes is discussed further below.

TABLE 1—PROPOSED CHANGES TO HARVEST CONTROL RULES FOR THE 2025–26 BIENNIUM

Stock	Default harvest control rule [a]	Alternative harvest control rule [a]
Rex Sole	ACL = ABC (P* 0.40)	ACL = ABC (P* 0.45)
Shortspine thornyhead [b]	ACL < ABC (P* 0.40)	ACL < ABC (P* 0.45), 40–10 HRC applied
Dover sole	ACL = 50,000 mt	ACL = ABC (P* 0.45)
Quillback Rockfish off California	ACL contribution < ABC (SPR 0.55; P* 0.45) [c]	ABC Rule [d] (ACL = ABC; P* 0.45)

[a] The Default Harvest Control Rules were used to set the ACLs in 2023 and 2024. The Alternative Harvest Controls rules are the proposed changes for setting the ACLs in 2025 and 2026.

[b] The 40–10 adjustment applies where a precautionary reduction is warranted, per the PCGFMP at section 4.6.1. The 40–10 adjustment reduces the harvest rate to help the stock return to the maximum sustainable yield level.

[c] In 2023–24, the harvest control rule (ACL contribution < ABC, SPR 0.55; P* 0.45) specified an ACL contribution because quillback rockfish was still part of the Nearshore rockfish complex. For 2025–26, California quillback rockfish is proposed to be taken out of the Nearshore complex and managed pursuant to a stock-specific ACL.

[d] The Council recommended the ABC Rule as the alternative harvest control rule based on a range of harvest strategies analyzed in the California Quillback Rockfish Rebuilding Plan new management measure, which is described in section III, P of this preamble.

Rex Sole

Rex sole is a Category 2 stock, managed as part of the Other Flatfish complex, with a default harvest control rule of ACL=ABC (P* 0.40). Rex sole is primarily caught in the bottom trawl fishery. In 2023, the NWFSC conducted a length-based data-moderate assessment (Agenda Item G.2 Attachment 3, September 2023), which estimates the stock is at 76.1 percent of unfished spawning output in 2023. This value is above the 25 percent management target level, indicating the stock is healthy. Therefore, the Council considered an alternative harvest control rule of ACL=ABC (P* 0.45). The application of a P* 0.45 means that a smaller fraction is used to reduce the OFL and to derive an ABC (beyond the reduction from σ), the result of which would yield higher ACLs in 2025–26 than under the default P* 0.40. As presented in the stock assessment and explained in the Council Analytical Document (Agenda Item F.6 Attachment 2 June 2024), the stock is not expected to fall below the 25 percent management target level during the 10-year catch projection period under either harvest control rule, even with the projected attainment of the full ACL, which is unlikely to occur based on recent mortality trends. ACL attainment from 2020–2022 was approximately 9 percent of the potential 2025 ACL under P* 0.45. Therefore, the Council recommended, and NMFS is proposing, an alternative harvest control rule of ACL=ABC (P* 0.45). This will provide the trawl industry the most flexibility in light of other expected constraints in 2025–26.

Shortspine Thornyhead

Shortspine thornyhead is a Category 2 stock with a default harvest control rule that includes the application of P* 0.40 to the coastwide ABC, which is then split into two area-based ACLs north and south of 34° 27′ N lat. The ACLs are set according to the 5-year rolling average biomass estimated from the NWFSC's West Coast Groundfish Bottom Trawl (WCGBT), which for the 2025–26 biennium would yield a north and south split of 70.6 percent and 29.4 percent, respectively. In 2023, the NWFSC conducted a length-based data-moderate assessment (Agenda Item G.2 Attachment 4, September 2023), which indicates the stock is at 39.4 percent of unfished spawning output in 2023. This value is slightly below the 40 percent target management level, which indicates the stock is in the precautionary zone; thus, the 40–10 reduction from the ABC to derive the ACL automatically applies when setting ACLs for 2025–26 as a precautionary management approach. Due to the decrease in biomass, the Council anticipates that shortspine thornyhead will become a constraining species even under the highest P* for both the trawl and non-trawl sectors, as catch projections for 2023 and 2024 are

similar to those ACLs that would result from a P* of 0.45. Additionally, due to anticipated increases in sablefish ACLs over the next few years, the trawl fleet that targets Dover sole, thornyheads, and sablefish (DTS) may expand effort, hence full attainment of shortspine thornyhead is a reasonable expectation. Therefore, the Council considered an alternative harvest control rule (ACL < ABC P* 0.45, 40–10 harvest control rule applied) to yield higher ACLs in 2025–26. As summarized in the Analysis and the Council Analytical Document (Agenda Item F.6 Attachment 2 June 2024), catch projections under a P* of 0.45 are still anticipated to remain within the ACLs and prevent overfishing. Therefore, NMFS is proposing, in alignment with the Council's recommendation, an alternative harvest control rule (*i.e.,* ACL < ABC P* 0.45, 40–10 harvest control rule applied). This will minimize adverse impacts to industry while still preventing overfishing of the stock. In addition to a change from the default P*, the Council recommended a new management measure that would remove the management line at 34° 27′ N lat. and set a coastwide ACL for the stock. This measure is described below under section III, L of this preamble.

Dover Sole

Dover sole is a Category 1 stock with a default harvest control rule of ACL = 50,000 metric tons (mt). However, in 2025–26, setting the ACL at 50,000 mt would violate the MSA, as the ACL would exceed the ABC. Therefore, the Council considered an alternative harvest control rule of P* 0.45 with the ACL set equal to the ABC. As explained in the Analysis and the Council Analytical Document (Agenda Item F.6 Attachment 2 June 2024), actual removals are likely to remain well below the ABC/ACL under this alternative, making the risk of overfishing low. Therefore, NMFS is proposing, in alignment with the Council's recommendation, an alternative harvest control rule (*i.e.,* ACL=ABC, P* 0.45).

California Quillback Rockfish

California quillback rockfish is a Category 2 stock with a default harvest control rule of ACL contribution < ABC (SPR 0.55; P* 0.45). Quillback rockfish is primarily caught by the non-trawl sectors, with approximately 75 percent caught by the recreational sector and approximately 25 percent caught by the commercial sector. Additionally, the majority of fishing mortality (~85 percent) occurs in State waters. In the 2023–24 biennium, California quillback rockfish was managed as part of the Nearshore rockfish complex both north and south of 40°10′ N lat. California quillback rockfish has since been categorized as its own stock under amendment 31 to the PCGFMP (88 FR 78677, November 16, 2023). The NWFSC conducted a data-moderate assessment in 2021 (Agenda Item E.2, Attachment 4, November 2021), which indicated depletion of the stock off California. The assessment was determined to be the best scientific information available in December 2021. In response to this assessment, and several subsequent reviews (Agenda Item C.6.a Supplemental SSC Report 1, September 2021; Agenda Item E.2.a Supplemental SSC Report 1, November 2021), NMFS declared the stock overfished in December 2023 and notified the Council of the requirement to develop a rebuilding plan. California quillback rockfish are caught with many other species of groundfish; therefore, the Council developed the rebuilding plan as part of the 2025–26 biennial specifications and management measures in order to account for restrictions needed for other groundfish targets in order to rebuild the stock. The Council considered a range of alternative harvest control rules during the development of the rebuilding plan that is proposed as a new management measure in this action, and which is described in detail under section III, P. of this preamble. Per the MSA, overfished species must have harvest specifications set to prevent overfishing (50 CFR 600.310(f)(3)(ii) and 50 CFR 600.310(f)(4)(i)), and species managed within a complex are managed to the complex OFL, which is additive across all species in the complex, rather than being managed to a species- or stock-specific harvest specification. Therefore, for the 2025–26 biennium, the Council recommended removing California quillback rockfish from the Nearshore rockfish complexes north and south of 40°10′ N lat., so that catch can be managed under stock-specific harvest specifications. NMFS is also proposing in alignment with the Council's recommendation, an alternative harvest control rule of the ABC Rule to set the 2025–26 ACLs for California quillback rockfish. The ABC Rule sets the ACL equal to the ABC with a management risk tolerance of P* 0.45 and the time-varying scientific uncertainty (σ = 1.0) reduction applied to the OFL. This harvest strategy is anticipated to rebuild the stock as fast as possible while taking into account the biology of the stock and the needs of fishing communities.

Stocks in Rebuilding Plans

When NMFS declares a stock overfished, the Council must develop and manage the stock in accordance with a rebuilding plan. For overfished stocks in the PCGFMP, this means that the harvest control rule for overfished stocks sets the ACL based on the rebuilding plan. The proposed rules for the 2011–12 (75 FR 67810, November 3, 2010) and 2013–14 (77 FR 67974, November 14, 2012) harvest specifications and management measures contain extensive discussions on the management approach used for overfished stocks, which are not repeated here. In addition, the SAFE document posted on the Council's website at *http://www.pcouncil.org/groundfish/safe-documents/* contains a detailed description of each overfished stock, its status and management, as well as the SSC's approach for the rebuilding analyses. This document provides information on yelloweye rockfish and, starting with the 2025–26 biennium, California quillback rockfish. NMFS declared yelloweye rockfish overfished in 2002. The Council adopted a rebuilding plan for the stock in 2004, and revised the rebuilding plan in 2011 under amendment 16–4 to the PCGFMP, and again during the 2019–20 biennium (83 FR 63970, December 12, 2018). The Council's proposed yelloweye rockfish ACLs for 2025 and 2026 are based on the current yelloweye rockfish rebuilding plan (see Appendix F to the PCGFMP at *www.pcouncil.org*), so additional details are not repeated here. As described above, NMFS declared California quillback rockfish overfished in December 2023. The Council adopted a rebuilding plan for the stock at the June 2024 meeting, which NMFS is proposing for implementation in this rulemaking for the 2025–26 biennium (Agenda Item F.6 Supplemental Revised Attachment 3 June 2024). The Council proposed California quillback rockfish ACLs for 2025 and 2026 in accordance with the proposed rebuilding plan, which is described in detail under section III, P. of this preamble.

D. Summary of ACL Changes From 2023 to 2025–26

Table 2 compares the ACLs for major stocks and stock complexes for 2023 and 2025–26 with harvest specifications set under their default harvest control rules. Under this proposed rule, 8 of the 39 stocks/complexes shown in table 2 would have higher ACLs in 2025 than in 2023, and 27 stocks/complexes would have ACLs that would decrease in 2025 from those in 2023. Three

stocks/complexes (*i.e.,* Other fish complex, Pacific cod, and starry flounder) would have the same ACLs in 2025 as in 2023. Under this proposed rule, the ACL for yelloweye rockfish would increase by 4.7 percent. This is based on the projections from the 2017 rebuilding analysis and the default harvest control rule specifying ACLs based on the SPR harvest rate of 65 percent. This predicted slow rate of rebuilding is anticipated for this slow growing species. Two stocks (sablefish north of 36° N lat. and sablefish south of 36° N lat.) have ACLs that would increase by more than 100 percent. This increase is due to new information provided in the 2023 update assessment, indicating multiple large year-classes in recent years (*e.g.,* 2016, 2020, and 2021), leading to large increases in the spawning biomass at the end of the time series, with the population projected to continue increasing as new recruits mature. The 55.5 percent decrease in canary rockfish is due to new information from the 2023 full assessment. The 64 percent increase in Other flatfish is due to new information from the 2023 update assessment on rex sole.

TABLE 2—ACLS FOR MAJOR STOCKS AND MANAGEMENT UNITS FOR 2023, AND PROPOSED ACLS FOR THE 2025–26 BIENNIUM UNDER DEFAULT HARVEST CONTROL RULES. BOLD INDICATES A CHANGE IN ACL GREATER THAN 50%

[Rebuilding species are capitalized]

Stock/species or complex	Area	ACL (mt)			% Change 2023 to 2025
		2023	2025	2026	
YELLOWEYE ROCKFISH	Coastwide	53.3	55.8	56.6	+4.7%
Arrowtooth Flounder	Coastwide	18,632	11,193	9,227	−39.9
Big Skate	Coastwide	1,320	1,224	1,188	−7.3
Black Rockfish	WA	290	245	241	−15.5
Black Rockfish	CA	334	234	236	−29.9
Bocaccio	S of 40°10′ N lat	1,842	1,681	1,668	−8.7
Cabezon	CA	182	162	155	−11.0
Cabezon/Kelp Greenling complex	WA	20	15	15	−25.0
Cabezon/Kelp Greenling complex	OR	185	177	174	−4.3
California Scorpionfish	Coastwide	262	244	238	−6.9
Canary Rockfish	**Coastwide**	**1,284**	**571**	**573**	**−55.5**
Chilipepper	S of 40°10′ N lat	2,183	2,815	2,643	+28.9
Cowcod	S of 40°10′ N lat	80	77	75	−3.8
Darkblotched Rockfish	Coastwide	785	754	732	−3.9
English Sole	Coastwide	9,018	8,884	8,819	−1.5
Lingcod	N of 40°10′ N lat	4,378	3,631	3,534	−17.1
Lingcod	S of 40°10′ N lat	726	748	773	+3.0
Longnose Skate	Coastwide	1,708	1,616	1,579	−5.3
Longspine Thornyhead	N of 34°27′ N lat	2,295	2,050	1,957	−10.7
Longspine Thornyhead	S of 34°27′ N lat	725	648	618	−10.7
Pacific Cod	Coastwide	1,600	1,600	1,600	0.0
Pacific Ocean Perch	N of 40°10′ N lat	3,573	3,328	3,220	−6.9
Pacific Spiny Dogfish	Coastwide	1,456	1,361	1,318	−6.5
Petrale Sole	Coastwide	3,485	2,354	2,238	−32.5
Sablefish	**N of 36° N lat**	**8,486**	**28,688**	**27,238**	**+238.1**
Sablefish	**S of 36° N lat**	**2,338**	**7,857**	**7,460**	**+236.1**
Blue/Deacon/Black Rockfish complex	Oregon	597	423	428	−29.2
Nearshore Rockfish North[a] complex	N of 40°10′ N lat	93	88	86	−5.4
Nearshore Rockfish South[a] complex	S of 40°10′ N lat	887	932	931	5.1
Other Fish complex	Coastwide	223	223	223	0.0
Other Flatfish complex	**Coastwide**	**4,862**	**7,974**	**7,144**	**+64.0**
Shelf Rockfish North complex	N of 40°10′ N lat	1,283	1,392	1,378	+8.5
Shelf Rockfish South complex	S of 40°10′ N lat	1,469	1,465	1,462	−0.3
Slope Rockfish North complex	N of 40°10′ N lat	1,540	1,488	1,460	−3.4
Slope Rockfish South complex	S of 40°10′ N lat	701	693	690	−1.1
Splitnose Rockfish	S of 40°10′ N lat	1,592	1,508	1,469	−5.3
Starry Flounder	Coastwide	392	392	392	0.0
Widow Rockfish	Coastwide	12,624	11,237	10,392	−11.0
Yellowtail Rockfish	N of 40° 10′ N lat	5,666	6,241	6,023	+10.1

[a] California quillback rockfish were removed from the Nearshore Rockfish complexes in November 2023. Thus, the units of comparison are offset between the 2023 ACL and 2025–2026 values in this table.

III. Proposed Management Measures

This section describes proposed management measures used to further allocate the ACLs to the various components of the fishery (*i.e.,* biennial fishery harvest guidelines (HGs) and set-asides) and management measures to control fishing. Management measures for the commercial fishery modify fishing behavior during the fishing year to ensure catch does not exceed the ACL, and include trip and cumulative landing limits, time/area closures, size limits, and gear restrictions. Management measures for the recreational fisheries include bag limits, size limits, gear restrictions, fish dressing requirements, and time/area closures.

A. Deductions From the ACLs

Before making allocations to the primary commercial and recreational components of groundfish fisheries, the Council recommends ''off-the-top deductions,'' or deductions from the

ACLs to account for anticipated mortality for certain types of activities, including: (1) harvest in Pacific Coast treaty Indian Tribal fisheries; (2) harvest in scientific research activities; (3) harvest in non-groundfish fisheries (incidental catch); and (4) harvest that occurs under EFPs. As part of NMFS' effort to simplify regulations pertaining to harvest specifications, the footnotes that typically specify these values in tables 1a, 1b, 2a, and 2b of subpart C would be removed, and all off-the-top deductions proposed for individual stocks or stock complexes and would be published in the 2024 SAFE. The details of the EFPs are discussed below in section III,I of this preamble.

Pacific Coast Tribal Fisheries

The Quileute Tribe, Quinault Indian Nation, Makah Indian Tribe, and Hoh Indian Tribe (collectively, ''the Pacific Coast Tribes'') implement management measures for Tribal fisheries both independently as sovereign governments and cooperatively with the management measures in the Federal regulations. The Pacific Coast Tribes work through the Council process to maintain groundfish set-asides, harvest guidelines, and allocations pursuant to treaty fishing rights and as co-managers of the resource. The Pacific Coast Tribes may adjust their Tribal fishery management measures inseason to stay within the Tribal set-asides and allocations and within the estimated impacts to overfished stocks. Table 3 provides the proposed Tribal harvest set-asides and allocations proposed for the 2025–26 biennium for groundfish species other than Pacific whiting, which is allocated through a separate annual specifications process with Canada. These targets are consistent with the 2024 targets, with the exception of petrale sole (decreased to 290 mt), sablefish north of 36° N lat. (increased to 2,869 mt in 2025 and 2,724 mt in 2026) and yelloweye rockfish (increased to 8 mt). Typically, a portion of these values are included as footnotes to tables 1a, 1b, 2a, and 2b of subpart C and the other portion of these values are specified at 50 CFR 660.50. NMFS would remove the footnotes from tables 1a, 1b, 2a, and 2b of subpart C, and publish the full list of Tribal set asides at 50 CFR 660.50 as part of regulatory cleanup efforts. As noted above, these values will also be published in the SAFE.

TABLE 3—PROPOSED TRIBAL HARVEST SET-ASIDES AND ALLOCATIONS FOR THE 2025–26 BIENNIUM COMPARED TO THOSE IN PLACE IN 2024

Stock/species	Off the top deduction		
	2024 (mt)	2025–2026 (mt)	
Arrowtooth Flounder	2,041		2,041
Big Skate	15		15
Black Rockfish (WA)	18		18
Cabezon/Kelp Greenling (WA)	2		2
Canary Rockfish	50		50
Darkblotched Rockfish	5		5
Dover Sole	1,497		1,497
English Sole	200		200
Lingcod N. of 40°10′ N lat	250		250
Longnose Skate	220		220
Longspine Thornyhead N. of 34°27′ N lat	30		30
Nearshore Rockfish North	1.5		1.5
Other Flatfish	60		60
Pacific cod	500		500
Pacific Ocean Perch	130		130
Pacific Spiny Dogfish	275		275
Petrale Sole	350		290
Sablefish N. of 36° N lat[a]	778	2,869 (2025)	2,724 (2026)
Shelf Rockfish North	30		30
Shortspine Thornyhead S. of 34°27′ N lat	50		50
Slope Rockfish North	36		36
Starry flounder	2		2
Widow rockfish	200		200
Yellowtail rockfish	1,000		1,000
Yelloweye rockfish	5		8

[a] Sablefish is allocated according to amendment 6 of the PCGFMP and 50 CFR 660.50(f)(2).

The Pacific Coast Tribes proposed trip limit management in Tribal fisheries for 2025–26 for several stocks, including several rockfish stocks and stock complexes. This rulemaking proposes the trip limits for Tribal fisheries. as provided to the Council at its April 2024 meeting in Supplemental Tribal Reports 1 and 2, Agenda Item F.5. For rockfish stocks. Tribal regulations will continue to require full retention of all overfished rockfish stocks and marketable non-overfished rockfish stocks. The Pacific Coast Tribes will continue to develop management measures, including depth, area, and time restrictions, in the directed Tribal Pacific halibut fishery in order to minimize incidental catch of yelloweye rockfish.

Scientific Research

NMFS is proposing, in alignment with the Council's recommendation, the below amounts in table 4 to accommodate mortality from research activities for the 2025–26 biennium. Research activities include the NWFSC's WCGBT survey, the NWFSC's Southern California Hook-and-Line survey, and the International Pacific

Halibut Commission longline surveys, as well as other Federal and state research projects. In previous harvest specification cycles, the Council established research set-asides equal to the long-term maximum or historical average (beginning in 2003) for all species except yelloweye rockfish and cowcod, for which custom methodologies were designed for setting research set-asides. However, many of these long-term maximums or averages are not reflective of recent mortality trends in scientific research activities. Therefore, for the 2025–26 biennium, 39 of the 43 stocks or stock complexes that have research set-asides would instead be set equal to their 10-year rolling maximum. The research set-asides for the remaining four stocks (*i.e.,* canary rockfish, cowcod, California quillback rockfish, and yelloweye rockfish) would continue to be established by other methodologies. The rationale for these departures is detailed in Agenda Item E.7.a, Supplemental GMT Report 2, November 2023. The amounts in Table 4 will be published in the SAFE.

TABLE 4—PROPOSED RESEARCH SET-ASIDES FOR THE 2025–26 BIENNIUM

[Rebuilding species are capitalized]

Stock/species	Management area	2025	2026
QUILLBACK ROCKFISH	California	0.1	0.1
YELLOWEYE ROCKFISH	Coastwide	2.9	2.9
Arrowtooth flounder	Coastwide	13.0	13.0
Big skate	Coastwide	5.5	5.5
Black rockfish (WA)	Washington	0.6	0.6
Black rockfish (CA)	California	0.1	0.1
Bocaccio	S of 40°10′ N lat	5.6	5.6
Cabezon (CA)	S of 42° N lat	0.0	0.0
California scorpionfish	S of 34°27′ N lat	0.8	0.8
Canary rockfish	Coastwide	10.1	10.1
Chilipepper	S of 40°10′ N lat	14.1	14.1
Cowcod	S of 40°10′ N lat	10.0	10.0
Darkblotched rockfish	Coastwide	8.5	8.5
Dover sole	Coastwide	61.9	61.9
English sole	Coastwide	8.0	8.0
Lingcod	N of 40°10′ N lat	17.7	17.7
Lingcod	S of 40°10′ N lat	3.2	3.2
Longnose skate	Coastwide	14.7	14.7
Longspine thornyhead	N of 34°27′ N lat	18.4	18.4
Longspine thornyhead	S of 34°27′ N lat	1.3	1.3
Pacific cod	Coastwide	0.8	0.8
Pacific ocean perch	N of 40°10′ N lat	5.4	5.4
Pacific Spiny dogfish	Coastwide	41.9	41.9
Pacific whiting	Coastwide	750.0	750.0
Petrale sole	Coastwide	24.1	24.1
Sablefish	N of 36° N lat	59.3	59.3
Sablefish	S of 36° N lat	2.3	2.3
Shortspine thornyhead	Coastwide	16.3	16.3
Splitnose rockfish	S of 40°10′ N lat	11.2	11.2
Starry flounder	Coastwide	0.6	0.6
Widow rockfish	Coastwide	17.3	17.3
Yellowtail rockfish	N of 40°10′ N lat	20.6	20.6
Complex			
Nearshore rockfish north	N of 40°10′ N lat	0.5	0.5
Nearshore rockfish south	S of 40°10′ N lat	0.7	0.7
Shelf rockfish north	N of 40°10′ N lat	15.3	15.3
Shelf rockfish south	S of 40°10′ N lat	15.1	15.1
Slope rockfish north	N of 40°10′ N lat	10.5	10.5
Slope rockfish south	S of 40°10′ N lat	18.2	18.2
Other fish	Coastwide	0.1	0.1
Other flatfish	Coastwide	23.6	23.6
Oregon black/blue/deacon rockfish	Oregon	0.1	0.1
Oregon cabezon/kelp greenling	Oregon	0.1	0.1
Washington cabezon/kelp greenling	Washington	0.4	0.4

Incidental Open Access

NMFS is proposing, in alignment with the Council's recommendation, the below amounts in table 5 to accommodate mortality of groundfish taken incidentally in non-groundfish fisheries (*i.e.,* the groundfish incidental open access (IOA) fisheries). IOA comprises the non-Tribal directed commercial Pacific halibut, limited entry and open access California halibut, pink shrimp, and other incidental fisheries. Similar to research mortality, the Council has historically established IOA set-asides equal to the long-term maximum or historical average (beginning in 2003) for all species; however, for the 2025–26 biennium, the Council recommended establishing set-asides based on the new 10-year rolling maximum for 33 of the 43 stocks or stock complexes that have IOA set-asides. The IOA set-asides for the remaining 10 stocks or stock

complexes (*i.e.,* bocaccio south of 40°10′ N lat., canary rockfish, darkblotched rockfish, longspine thornyhead north of 34° 27′ N lat., petrale sole, sablefish south of 36° N lat., widow rockfish, nearshore rockfish north of 40° 10′ N lat., slope rockfish south of 40° 10′ N lat., and yelloweye rockfish) would continue to be established by other methodologies. The rationale for these departures is detailed in the Agenda Item E.7.a, Supplemental GMT Report 2 (November 2023). The amounts in table 5 will be published in the SAFE.

TABLE 5—PROPOSED INCIDENTAL OPEN ACCESS SET-ASIDES FOR THE 2025–26 BIENNIUM

[Rebuilding species are capitalized]

Stock/species	Management area	2025	2026
QUILLBACK ROCKFISH	California	0.0	0.0
YELLOWEYE ROCKFISH	Coastwide	3.9	3.9
Arrowtooth flounder	Coastwide	41.0	41.0
Big skate	Coastwide	38.9	38.9
Black rockfish (WA)	Washington	0.0	0.0
Black rockfish (CA)	California	1.2	1.2
Bocaccio rockfish	S of 40°10′ N lat	2.2	2.2
Cabezon (CA)	S of 42° N lat	0.06	0.6
California scorpionfish	S of 34°27′ N lat	1.2	1.2
Canary rockfish	Coastwide	2.8	2.8
Chilipepper rockfish	S of 40°10′ N lat	13.2	13.2
Cowcod	S of 40°10′ N lat	0.1	0.1
Darkblotched rockfish	Coastwide	10.7	10.7
Dover sole	Coastwide	25.2	25.2
English sole	Coastwide	6.6	6.6
Lingcod	N of 40°10′ N lat	13.4	13.4
Lingcod	S of 40°10′ N lat	8.7	8.7
Longnose skate	Coastwide	15.9	15.9
Longspine thornyhead	N of 34°27′ N lat	1.3	1.3
Longspine thornyhead	S of 34°27′ N lat	0.2	0.2
Pacific cod	Coastwide	0.6	0.6
Pacific ocean perch	N of 40°10′ N lat	10.1	10.1
Pacific Spiny dogfish	Coastwide	6.7	6.7
Pacific whiting	Coastwide	1,500.0	1,500.0
Petrale sole	Coastwide	4.4	4.4
Sablefish	S of 36° N lat.	25.0	25.0
Shortspine thornyhead	Coastwide	5.7	5.7
Splitnose rockfish	S of 40°10′ N lat	2.9	2.9
Starry flounder	Coastwide	14.1	14.1
Widow rockfish	Coastwide	1.0	1.0
Yellowtail rockfish	N of 40°10′ N lat	4.5	4.5
Complex			
Nearshore rockfish north	N of 40°10′ N lat	1.1	1.1
Nearshore rockfish south	S of 40°10′ N lat	1.8	1.8
Shelf rockfish north	N of 40°10′ N lat	20.5	20.5
Shelf rockfish south	S of 40°10′ N lat	11.5	11.5
Slope rockfish north	N of 40°10′ N lat	11.5	11.5
Slope rockfish south	S of 40°10′ N lat	0.9	0.9
Other fish	Coastwide	9.7	9.7
Other flatfish	Coastwide	87.7	87.7
Oregon black/blue/deacon rockfish	Oregon	1.5	1.5
Oregon cabezon/kelp greenling	Oregon	0.7	0.7
Washington cabezon/kelp greenling	Washington	0	0

Exempted Fishing Permits

Issuing EFPs is authorized by regulations implementing the MSA at 50 CFR 600.745, which state that EFPs may be used to authorize fishing activities that would otherwise be prohibited. The Council routinely considers EFP applications concurrently with the biennial harvest specifications and management process because expected catch under most EFP projects is accounted for via off-the-top deductions from ACLs. However, both EFP applications recommended by the Council for 2025–26 do not request off-the-top deductions from ACLs and plan to account for their catch via other methods. A detailed description of these EFP proposals is provided in section III, I of this preamble.

Recreational Sablefish Set-Aside

The allocation framework for sablefish north of 36° N lat. was set up under amendment 6 to PCGFMP (57 FR 54001; Nov 16 1992). This framework deducts a set-aside from the ACL to account for mortality in the recreational fisheries. The set-aside amount is usually based on the maximum historical value of sablefish caught in recreational fisheries. The Council recommended, and NMFS is proposing, increasing the recreational set-aside from 6 mt in the 2023–24 biennium to 30 mt in the 2025–26 biennium. As described in the Council Analytical Document (Agenda Item F.6 Attachment, June 2, 2024), historical recreational mortality of sablefish north of 36° N lat. has not exceeded 3.98 mt from 2005–22. However, the California and Oregon recreational catch estimates

for 2023 totaled 23.9 mt. Therefore, the Council is recommending increasing the set-aside amount to accommodate the recreational fishery. This increase is not expected to constrain the commercial fishery in the 2025–26 biennium.

B. Annual Catch Targets

As defined at 50 CFR 660.11, an annual catch target (ACT) is a management target set below the ACL that may be used as an accountability measure in cases where there is uncertainty in inseason catch monitoring to ensure against exceeding an ACL. Since the ACT is a target and not a limit, it can be used in lieu of HGs or set strategically to accomplish other management objectives. Sector-specific ACTs can also be specified to accomplish management objectives. For the 2025–26 biennium, the Council recommended, and NMFS is proposing, ACTs for yelloweye rockfish in the non-trawl sectors (both commercial and recreational), copper rockfish in the recreational sector south of 34° 27′ N lat., and shortspine thornyhead in the commercial non-trawl sector north of 34° 27′ N lat. Further, the Council recommended removing the ACT from the 2023–24 biennium for California quillback rockfish. These ACTs can be found in the footnotes to tables 1a and 2a to part 660, subpart C in the regulatory text of this proposed rule.

Yelloweye Rockfish

The Council considered removing the non-trawl ACT for yelloweye rockfish. Yelloweye rockfish is a prohibited species in all non-trawl groundfish fisheries, where more than 95 percent of the mortality occurs. It is currently managed with a non-trawl ACT set at 78.4 percent of the non-trawl allocation, and sector-specific ACTs under the non-trawl allocation are also set at 78.4 percent of their respective sector-specific HGs (table 6 below). The majority of commercial non-trawl mortality is discarded and, therefore, commercial non-trawl inseason estimates are largely year-end projections that do not have data-informed estimates of discards until September of the following year, when the Groundfish Expanded Mortality Multiyear (GEMM) report is available. Additionally, pre-season management measures of any non-trawl sector are not expected to be different with or without the ACT. However, ultimately, the Council recommended maintaining ACTs as a precaution. Since yelloweye rockfish catch has been restricted for many years, it is difficult to project encounter rates. This precautionary approach to higher catch limits would allow more access to target fisheries for the non-trawl sector, while also managing for the uncertainty and volatility in catch of this rebuilding stock by this sector.

TABLE 6—PROPOSED 2025–26 NON-TRAWL YELLOWEYE ROCKFISH HGS AND ACTS FOR THE SECTOR AND SUB-SECTORS

Sector	2025		2026	
	HG (mt)	ACT (mt)	HG (mt)	ACT (mt)
Non-Trawl Sector total	37.7	29.6	38.5	30.2
Non-nearshore/Nearshore (20.9%)	7.9	6.2	8.0	6.3
WA Rec (25.6%)	9.7	7.6	9.9	7.7
OR Rec (23.3%)	8.8	6.9	9.0	7.0
CA Rec (30.2%)	11.4	8.9	11.6	9.1

Copper Rockfish South of 34°27′ N lat.

NMFS is proposing, in alignment with the Council's recommendation, to remove the statewide all-sector copper rockfish ACT and to establish a recreational copper rockfish ACT in the area south of 34°27′ N lat. This recommendation was made in response to the 2023 copper rockfish off California stock assessment, which estimated depletion of copper rockfish at 46 and 16 percent north and south of 34°27′ N lat., respectively (Agenda Item G.2 Attachment 1, September 2023 and Agenda Item G.2 Attachment 2, September 2023). While allowable harvest of copper rockfish off California is shared by the fixed gear commercial and recreational sectors, recreational mortality has accounted for the majority of impacts in recent years. This is particularly evident in the area south of 34°27′ N lat. Over the last 6 years, the recreational fishery, on average, has been responsible for approximately 90 percent of total mortality in the area south of 34°27′ N lat. As noted in Agenda Item E.7.a, Supplemental GMT Report 3, November 2023, establishing a within non-trawl recreational ACT for copper rockfish south of 34°27′ N lat. may provide a mechanism for management specifically addressing the proportion of the copper rockfish stock that may be more susceptible to localized depletion, in a similar manner as has been done previously for stocks of concern (*e.g.,* yelloweye rockfish). The proposed ACTs are 15.8 and 18.0 mt for 2025 and 2026, respectively.

Shortspine Thornyhead North of 34°27′ N lat.

NMFS is proposing, in alignment with the Council's recommendation, an ACT for shortspine thornyhead in the non-trawl commercial sector north of 34°27′ N lat. This ACT is related to the Council's recommendation to revise the allocation framework for shortspine thornyhead, which is described in detail under section III, L of this preamble. The proposed ACTs for shortspine thornyhead are 67 mt and 55 mt for 2025 and 2026, respectively.

California Quillback Rockfish

NMFS is proposing, in alignment with the Council's recommendation, to remove the ACT from the 2023–24 biennium for quillback rockfish off California. The ACT was originally designed as a mechanism to monitor quillback rockfish mortality relative to its component mortality of the Nearshore Rockfish complex ACL. Now that the Council has recommended to remove California quillback rockfish from the Nearshore complex, mortality will be monitored against its species-specific ACLs. Due to anticipated low harvest limits, there is little value in setting an ACT lower than the ACL because the small difference in an ACL to ACT will not give the Council a timely warning to reduce mortality to avoid exceeding the ACL.

C. Biennial Fishery Allocations

The Council routinely recommends two-year trawl and non-trawl allocations during the biennial specifications process for stocks without formal allocations (as defined in section

6.3.2 of the PCGFMP) or stocks where the long-term allocation is suspended because the stock is declared overfished. The two-year trawl and non-trawl allocations, with the exception of sablefish north of 36° N lat., are based on the fishery HG. The fishery HG is the tonnage that remains after subtracting the off-the-top deductions described in section III, A, entitled ''Deductions from the ACLs,'' in this preamble. The trawl and non-trawl allocations and recreational HGs are designed to accommodate anticipated mortality in each sector as well as variability and uncertainty in those mortality estimates. Additional information on the Council's allocation framework and formal allocations can be found in section 6.3 of the PCGFMP and 50 CFR 660.55 of the Federal regulations. Tables 7 and 8 below include both categories of allocations, including formal allocations specified in the PCGFMP (*i.e.,* amendment 21 stocks/species) or biennial allocations that are not specified in the PCGFMP and only specified in the Federal regulations each biennium (*i.e.,* 2-year allocations). Table 9 below presents the proposed allocations for sablefish north of 36° N lat. All allocations are detailed in the harvest specification tables appended to 50 CFR part 660, subpart C in the regulatory text of this proposed rule.

TABLE 7—PROPOSED 2025 AMENDMENT 21 AND BIENNIAL TRAWL/NON-TRAWL ALLOCATION PERCENTAGES (%) AND ALLOCATION AMOUNTS IN METRIC TONS (mt)

[Rebuilding species are capitalized]

Stock/species	Management area	Fishery HG (mt)	Allocation type	Trawl		Non-trawl	
				%	mt	%	mt
Yelloweye rockfish	Coastwide	41	Biennial	8	3.3	92	38.5
Arrowtooth flounder	Coastwide	9,098	A–21	95	8,643.1	5	454.9
Big skate	Coastwide	1,164.6	Biennial	95	1,106.4	5	58.2
Bocaccio rockfish	S of 40°10′ N lat	1,673.2	Biennial	39	652.5	61	1,020.6
Canary rockfish	Coastwide	508.4	Biennial	72.3	367.6	27.7	140.8
Chilipepper rockfish	S of 40°10′ N lat	2,788	A–21	75	2,091	25	697.0
Cowcod	S of 40°10′ N lat	66.5	Biennial	36	23.9	64	42.6
Darkblotched rockfish	Coastwide	729.8	A–21	95	693.3	5	36.5
Dover sole	Coastwide	45,840	A–21	95	43,459.8	5	2,290.2
English sole	Coastwide	8,669.4	A–21	95	8,235.9	5	433.5
Lingcod	N of 40°10′ N lat	3,349.9	A–21	45	1,507.5	55	1,842.4
Lingcod	S of 40°10′ N lat	736.4	Biennial	40	294.6	60	441.8
Longnose skate	Coastwide	1,365.4	Biennial	90	1,228.9	10	136.5
Longspine thornyhead	N of 34°27′ N lat	2,000.7	A–21	95	1,900.7	5	100.0
Pacific cod	Coastwide	1,098.6	A–21	95	1,043.7	5	54.9
Pacific Ocean perch	N of 40°10′ N lat	3,182.5	A–21	95	3,023.4	5	159.1
Pacific whiting b/	Coastwide	.....	A–21	100	.....	0	0
Petrale sole	Coastwide	2,036	Biennial	.....	2,006	.....	30
Sablefish	N of 36° N lat	See Table 9					
Sablefish	S of 36° N lat	7,829.8	A–21	42	3,288.5	58	4,541.3
Shortspine thornyhead	Coastwide	743.3	Biennial	64	475.7	36	267.6
Splitnose rockfish	S of 40°10′ N lat	1,493.9	A–21	95	1,419.2	5	74.7
Starry flounder	Coastwide	375.3	A–21	50	187.7	50	187.7
Widow rockfish	Coastwide	11,018.7	Biennial	.....	10,718.7	.....	300.0
Yellowtail rockfish	N of 40°10′ N lat	5,216.1	A–21	88	4,590.2	12	625.9
Complexes							
Shelf rockfish north	N of 40°10′ N lat	1,325.7	Biennial	60.2	798.1	39.8	527.6
Shelf rockfish south	S of 40°10′ N lat	1,438.6	Biennial	12.2	175.4	87.8	1,263.1
Slope rockfish north	N of 40°10′ N lat	1,430	A–21	81	1,158.3	19	271.7
Slope rockfish south	S of 40°10′ N lat	674	Biennial	63	424.6	37	249.4
Other flatfish	Coastwide	7,803	A–21	90	7,022.7	10	780.3

TABLE 8—PROPOSED 2026 AMENDMENT 21 AND BIENNIAL TRAWL/NON-TRAWL ALLOCATION PERCENTAGES (%) AND ALLOCATION AMOUNTS IN METRIC TONS (mt)

Stock/species	Management area	Fishery HG (mt)	Allocation type	Trawl		Non-trawl	
				%	mt	%	mt
Yelloweye Rockfish	Coastwide	41.8	Biennial	8	3.3	92	38.5
Arrowtooth flounder	Coastwide	7,132	A–21	95	6,775.4	5	356.6
Big skate	Coastwide	1,128.6	Biennial	95	1,072.2	5	56.4
Bocaccio	S of 40°10′ N lat	1,680.5	Biennial	39	655.4	60	1,025.1
Canary rockfish	Coastwide	509.6	Biennial	72.3	368.4	27.7	141.2
Chilipepper	S of 40°10′ N lat	2,615.2	A–21	75	1,961.4	25	653.8
Cowcod	south of 40°10′ N lat	65.2	Biennial	36	23.5	64	41.7
Darkblotched rockfish	Coastwide	707.8	A–21	95	672.4	5	35.4
Dover sole	Coastwide	40,873	A–21	95	38,829.4	5	2,043.7
English sole	Coastwide	8,604.4	A–21	95	8,174.2	5	430.2
Lingcod	N of 40°10′ N lat	3,252.9	A–21	45	1,463.8	55	1,789.1
Lingcod	S of 40°10′ N lat	761.5	Biennial	40	304.6	60	456.9

TABLE 8—PROPOSED 2026 AMENDMENT 21 AND BIENNIAL TRAWL/NON-TRAWL ALLOCATION PERCENTAGES (%) AND ALLOCATION AMOUNTS IN METRIC TONS (mt)—Continued

Stock/species	Management area	Fishery HG (mt)	Allocation type	Trawl		Non-trawl	
				%	mt	%	mt
Longnose skate	Coastwide	1,328.4	Biennial	90	1,195.6	10	132.8
Longspine thornyhead	N of 34°27' N lat	1,907.3	A–21	95	1,811.9	5	95.4
Pacific cod	Coastwide	1,098.6	A–21	95	1,043.7	5	54.9
Pacific Ocean perch	N of 40°10′ N lat	3,074.5	A–21	95	2,920.8	5	153.7
Pacific whiting a/	Coastwide	.....	A–21	100	0.0	.....	0
Petrale sole	Coastwide	1,919.5	Biennial	.....	1,889.5	.....	30.0
Sablefish	N of 36° N lat	.....	See Table 9				
Sablefish	S of 36° N lat	7,432.9	A–21	42	3,121.8	58	4,311.1
Shortspine thornyhead	Coastwide	752.7	Biennial	71	534.4	29	218.3
Splitnose rockfish	S of 40°10′ N lat	1,454.9	A–21	95	1,382.2	5	72.7
Starry flounder	Coastwide	375.3	A–21	50	187.7	50	187.7
Widow rockfish	Coastwide	10,173.7	Biennial	.....	9,873.7	.....	300.0
Yellowtail rockfish	N of 40°10′ N lat	4,997.5	A–21	88	4,397.8	12	599.7
Complexes							
Shelf rockfish north	N of 40°10′ N lat	1,312.3	Biennial	60.2	790	39.8	522.3
Shelf rockfish south	N of 40°10′ N lat	1,436.2	Biennial	12.2	172.2	87.8	1261
Slope rockfish north	N of 40°10′ N lat	1,402.2	A–21	81	1,135.8	19	266.4
Slope rockfish south	S of 40°10′ N lat	671	Biennial	63	422.7	37	248.3
Other flatfish	Coastwide	6,563	A–21	90	6,973	10	697.3

[a] Pacific whiting harvest limits are set through an annual bilateral treaty process external to the Council.

TABLE 9—PROPOSED 2025–2026 NON-TRIBAL SABLEFISH NORTH OF 36° N LAT. COMMERCIAL HGS AND LIMITED ENTRY (LE) TRAWL AND FIXED GEAR (LEFG) AND OPEN ACCESS (OA) FISHERY ALLOCATIONS AS PERCENTAGES (%) AND METRIC TONS (mt)

Year	Non-tribal commercial HG	LE share		LE trawl share		LEFG share		OA share	
		%	mt	%	mt	%	mt	%	mt
2025	25,729.3	90.6	23,310.7	58	13,520.2	42	9,791.9	9.4	2,418.6
2026	24,425.1	90.6	22,129.1	58	12,834.9	42	9,294.0	9.4	2,296.0

Shortspine Thornyhead

Shortspine thornyhead has a formal allocation structure described in amendment 21 to the PCGFMP. The stock has a coastwide OFL and ABC, with two area-specific ACLs and fishery HGs set for north and south of 34°27′ N lat. The area-specific ACLs have been apportioned using the data (2003–2012) from the NWFSC WCGBT survey at the time of the previous assessment conducted in 2013. There are different allocation frameworks for each area. For north of 34°27′ N lat., 95 percent of the HG has gone to the trawl sector, and 5 percent of the HG to the non-trawl sector. For south of 34°27′ N lat., a fixed tonnage of 50 mt has gone to the trawl sector, and the remainder of the HG to the non-trawl sector. For the 2025–26 biennium, NMFS is proposing, in alignment with the Council's recommendation, a change to this allocation structure to alleviate anticipated constraints for both the trawl and non-trawl sector north of 34°27′ N lat. The details of this new management measure are described in the Analysis and in section III, L of this preamble. The proposed allocation framework would change shortspine thornyhead to a 2-year allocation species, and set a coastwide ACL, coastwide off-the-top deductions, and a coastwide HG. In 2025, the trawl/non-trawl allocation would be 64 and 36 percent of the HG, respectively, and in 2026 the trawl/non-trawl allocation would be 71 and 29 percent of the HG, respectively. These values are reflected in tables 6 and 7 above.

Widow Rockfish

The typical allocation framework for widow rockfish allots a fixed 400 mt to the non-trawl sector and the remainder of the HG to the trawl sector. For the 2025–26 biennium, NMFS is proposing, in alignment with the Council's recommendation, to reduce the non-trawl allocation to a fixed 300 mt, thus increasing the remainder of the HG allocated to the trawl sector by 100 mt. As described in the Council Analytical Document (Agenda Item F.6 Attachment 2 June 2024), the 2025–26 trawl allocations are expected to be lower than that sector's mortality in recent years. The resulting allocations proposed for 2025 and 2026 in tables 6 and 7, respectively, are expected to meet the needs of each sector.

D. Harvest Guideline Sharing Agreements

For each biennium, the Council can consider HG sharing agreements for other stocks or stock complexes separate from the standard list of biennial allocations discussed in section III, C of this preamble. These sharing agreements can be arrangements on how the HG is split among separate states, fishery sectors, or both. For the 2025–26 biennium, NMFS is proposing sharing agreements for: bocaccio south of 40°10′ N lat., canary rockfish, cowcod, Nearshore rockfish complex north of 40°10′ N lat., sablefish south of 36° N lat., slope rockfish south of 40°10′ N lat., and blackgill rockfish. All proposed sharing agreements are maintained from the 2023–24 biennium, with the exception of sablefish south of 36° N lat. The Council is recommending a new sharing agreement for sablefish south of 36° N lat. (described below) based on a new recreational set-aside. See the Council Analytical Document (Agenda Item F.6 Attachment 2, June 2024) for

more information on how these HG sharing agreements were chosen. Each of the sharing agreements and the resulting shares between sectors and/or states will be published in the SAFE.

Sablefish South of 36° N Lat.

The Council recommended, and NMFS is proposing, a new recreational set-aside of 10 mt for sablefish south of 36° N lat., within the non-trawl HG sharing agreement, because the recreational fishery in this area has expressed interest in targeting sablefish. As described in the Council Analytical Document (Agenda Item F.6 Attachment 2, June 2024), this amount would allow for better monitoring of mortality of this stock and is not expected to constrain the commercial non-trawl sector, which targets sablefish.

TABLE 10—PROPOSED HG SHARING AGREEMENT FOR SABLEFISH SOUTH OF 36° N LAT. IN THE 2025–26 BIENNIUM

Sector	Non-trawl allocation (mt)	Rec. set-aside (mt)	Non-trawl HG (mt)	LEFG share (mt) 70%	OA share (mt) 30%
2025	4,541.3	10	4,531.3	3,171.9	1,359.4
2026	4,311.1	10	4,301.1	3,010.8	1,290.3

E. Modifications to Waypoints for Rockfish Conservation Areas

Rockfish Conservation Areas (RCAs) are large area closures intended to reduce the catch of a rockfish stock or stock complex by restricting fishing activity at specific depths. The boundaries for RCAs are defined by straight lines connecting a series of latitude and longitude coordinates that approximate depth contours. These sets of coordinates, or lines, are not gear or fishery specific, but can be used in combination to define an area. NMFS then implements fishing restrictions for a specific gear and/or fishery within each defined area.

For the 2025–26 biennium, NMFS is proposing, in alignment with the Council's recommendation, coordinate modifications to six waypoints (#95 through 100) on the 50 fathom (fm) line seaward of California between Pt. Arena and Bodega Bay. These modifications would better align existing RCA coordinates with the 50-fm chart-based depth contour.

F. Limited Entry Trawl

The limited entry trawl fishery is made up of the shorebased individual fishing quota (IFQ) program (for whiting and non-whiting) and the at-sea whiting sectors (Mothership (MS) and catcher-processor (C/P)). For some stocks and stock complexes with a trawl allocation, an amount is first set-aside for the at-sea whiting sector with the remainder of the trawl allocation going to the shorebased IFQ sector. Set-asides are not managed by NMFS or the Council except in the case of a risk to the ACL.

At-Sea Set Asides

For several species, the trawl allocation is reduced by an amount set-aside for the at-sea whiting sector. This amount is designed to accommodate catch by the at-sea whiting sector when they are targeting Pacific whiting. NMFS is proposing, in alignment with the Council's recommendation, the set-asides in table 11 for the 2025–26 biennium.

TABLE 11—2025–26 AT-SEA SET-ASIDES FOR VESSELS TARGETING PACIFIC WHITING WHILE FISHING AS PART OF THE AT-SEA SECTOR

Species or species complex	Area	At-sea set aside amount (mt)
Arrowtooth Flounder	Coastwide	100
Canary rockfish	Coastwide	20
Darkblotched rockfish	Coastwide	100
Dover sole	Coastwide	10
Lingcod	N of 40°10′ N lat	15
Longnose skate	Coastwide	5
Other flatfish	Coastwide	100
Pacific halibut	Coastwide	10
Pacific ocean perch	N of 40°10′ N lat	300
Petrale sole	Coastwide	5
Sablefish	N of 36° N lat	429
Shelf rockfish complex	N of 40°10′ N lat	35
Shortspine thornyhead	N of 34°27′ N lat	70
Slope rockfish complex	N of 40°10′ N lat	300
Widow rockfish	Coastwide	300
Yellowtail rockfish	N of 40°10′ N lat	360

Incidental Trip Limits for IFQ Vessels

For vessels fishing in the Shorebased IFQ Program, with either groundfish trawl gear or non-trawl gears, the following incidentally-caught stocks are managed with trip limits: Nearshore rockfish complex north and south, Washington black rockfish, Oregon black/blue/deacon rockfish complex, cabezon (46°16′ to 40°10′ N lat. and south of 40°10′ N lat.), Pacific spiny dogfish, longspine thornyhead south of 34°27′ N lat., big skate, California scorpionfish, longnose skate, Pacific whiting, and the Other Fish complex. For all these stocks, this rulemaking proposes maintaining the same IFQ fishery trip limits for these stocks for the start of the 2025–26 biennium as those in place in 2024. Additionally, this rulemaking proposes maintaining the

trip limit for blackgill rockfish within the southern Slope rockfish complex. The trip limit would be unlimited to start the 2025 fishing year. The purpose of the blackgill trip limit would be to allow the Council to reduce targeting of blackgill rockfish inseason, if needed. Trip limits for the IFQ fishery can be found in table 1b (North) and table 1b (South) to part 660, subpart D. Changes to trip limits would be considered a routine measure under 50 CFR 660.60(c), and may be implemented or adjusted, if determined necessary, through inseason action.

G. LEFG and OA Non-Trawl Fishery

Management measures for the LEFG and OA non-trawl fisheries tend to be similar because the majority of participants in both fisheries use hook-and-line gear. Management measures, including area restrictions (*e.g.,* Non-Trawl RCA) and trip limits in these non-trawl fisheries, are generally designed to allow harvest of target stocks while keeping catch of overfished stocks low. LEFG trip limits are specified in table 2b (North) and table 2b (South) to subpart E. OA trip limits are specified in table 3b (North) and table 3b (South) to subpart F, in the regulatory text of this proposed rule. HG sharing agreements between non-trawl sectors are published in the SAFE.

LEFG and OA Trip Limits

The Council recommended, and NMFS is proposing, status quo trip limits for LEFG and OA fisheries in 2025, with the exception of the OA trip limit for lingcod north of 42° N lat., which is being decreased from 11,000 pounds (lb) (4,990 kilograms (kg)) per 2 months, to 9,000 lb (4,082 kg) per 2 months, to ensure the OA trip limit is lower than the LEFG trip limit. The Council also recommended modifying the temporal component (*i.e.,* monthly to bimonthly) of multiple OA and LEFG trip limits. Consolidating trip limits from monthly to bimonthly is expected to reduce regulator complexity and confusion. With the exception of the trip limit for lingcod north of 42° N lat., trip limit amounts that were monthly would double for the bimonthly trip limit (*i.e.,* a trip limit that was 100 lb (45 kg) monthly would become a 200 lb (91 kg) trip limit in the bimonthly option). The Council could recommend further adjustment to the trip limits through additional inseason action, once more data on the current limits is collected and the effects on mortality, particularly discard mortality, are better understood. More information on these trip limits can be found in the Council Analytical Document (Agenda Item F.6 Attachment 2, June 2024).

Primary Sablefish Tier Limits

The primary sablefish fishery tier program is a limited access privilege program set up under amendment 14 to PCGFMP (66 FR 41152; August 7, 2001). Participants hold limited entry permits with a pot gear and/or longline gear endorsement and a sablefish endorsement.

Under amendment 14, as set out in 50 CFR 660.231, the permit holder of a sablefish-endorsed permit receives a tier limit, which is an annual share of the sablefish catch allocation to this sector. NMFS sets three different tier limits through the biennial harvest specifications and management measures process and up to three permits may be stacked at one time on a vessel participating in the fishery. Stacked tier limits are combined to provide a cumulative catch limit for that vessel. After vessels have caught their full tier limits, they are allowed to move into other fisheries for sablefish, specifically the LEFG or OA trip limit fishery, or fisheries for other species. The proposed tier limits for 2025 are as follows: Tier 1 at 246,824 lb (111,957 kg), Tier 2 at 112,193 lb (50,890 kg), and Tier 3 at 64,110 lb (29,080 kg). The proposed tier limits for 2026 are as follows: Tier 1 at 234,312 lb (106,282 kg), Tier 2 at 106,506 lb (48,310 kg), and Tier 3 at 60,860 lb (27,606 kg).

H. Recreational Fisheries

This section describes the recreational fisheries management measures proposed for 2025–2026, which are intended to keep catch within the recreational harvest guidelines for each stock. Washington, Oregon, and California each proposed, and the Council recommended, different combinations of seasons, bag limits, area closures, and size limits for stocks targeted in recreational fisheries. These measures are designed to limit catch of overfished stocks found in the waters adjacent to each state while allowing target fishing opportunities in their particular recreational fisheries. This proposed rule would set these measures for recreational fisheries occurring in the EEZ. Each state, respectively, typically sets measures for recreational fisheries in State waters. The following sections describe the recreational management measures proposed in each state.

Washington

The state of Washington manages its marine fisheries in four areas: (1) Marine Area 1, which extends from the Oregon/Washington border to Leadbetter Point; (2) Marine Area 2, which extends from Leadbetter Point to the mouth of the Queets Rivers; (3) Marine Area 3, which extends from the Queets River to Cape Alava; and (4) Marine Area 4, which extends from Cape Alava to the Sekiu River. This proposed rule would adopt the following season structure in table 12.

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Table 12 -- Proposed Washington Recreational Fishing Season Structure for 2025-26

Marine Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
3 and 4 (North Coast)	Closed		Open[a/]			Open <20 fm (37 m) [a/] [b/] [c/]		Open			Closed	
2 (South Coast)	Closed		Open [d/] [e/]								Closed	
1 (Columbia River)	Closed		Open [f/] [g/]								Closed	

a/ Retention of copper, quillback, and vermilion rockfishes prohibited May 1 through July 31.
b/ Retention of lingcod, Pacific cod, sablefish, bocaccio, silvergray rockfish, canary rockfish, widow rockfish, and yellowtail rockfish allowed >20 fm on days when Pacific halibut is open June 1 through July 31.
c/ Retention of yellowtail and widow rockfishes is allowed >20 fm (37 m) in July.
d/ From May 1 through May 31 lingcod retention prohibited >30 fm (55 m) except on days that the primary Pacific halibut season is open.
e/ When lingcod is open, retention is prohibited seaward of a line drawn from Queets River (47° 31.70' N. Lat. 124° 45.00' W. Lon.) to Leadbetter Point (46° 38.17' N. Lat. 124° 30.00' W. Lon.), except on days open to the primary Pacific halibut fishery and June 1 - 15 and September 1 - 30.
f/ Retention of sablefish, Pacific cod, flatfish (other than halibut), yellowtail, widow, canary, redstripe, greenstriped, silvergray, chilipepper, bocaccio, and blue/deacon rockfishes allowed during the all-depth Pacific halibut fishery. Lingcod retention is only allowed with halibut on board north of the WA-OR border.
g/ Retention of lingcod is prohibited seaward of a line drawn from Leadbetter Point (46° 38.17' N. Lat., 124° 21.00' W. Lon.) to 46° 33.00' N. Lat., 124° 21.00' W. Lon. year round except lingcod retention is allowed from June 1 - 15 and September 1 - 30.

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Consistent with the Council's recommendation, NMFS proposes continuing with the same season structure, closed areas, and bag limits for 2025–26 as were in place in 2024, with the exception of some varying depth restrictions proposed in table 12 above to ensure harvest specifications are not exceeded. The Council also proposed a new sub-bag limit for canary rockfish of five fish (out of the seven rockfish bag limit). For more information on the proposed management measures for the Washington recreational fishery, see the Washington Department of Fish and Wildlife (WDFW) reports from the April and June 2024 Council meetings (Agenda Item F.5.a, Supp. WDFW Report 1, April 2024; Agenda Item F.6.a WDFW Report 1 June 2024).

Oregon

NMFS is proposing, consistent with the Council's recommendation, that Oregon recreational fisheries in 2025–26 would operate under an all months all depths season structure to start the 2025 fishing year. The Council recommended maintaining the 2023–24 aggregate bag limits and size limits in Oregon recreational fisheries for 2025–26, but with the addition of a new bag limit for sablefish and a new sub-bag limit for canary rockfish within the longleader bag limit. The proposed bag limits are: a marine fish aggregate limit of 10 fish per day, where cabezon have a minimum size of 16 inches (in) (41 centimeter (cm)); 3 lingcod per day, with a minimum size of 22 in (56 cm); 25 flatfish per day, excluding Pacific halibut; a longleader gear limit of 12 fish per day with a sub-bag limit of 5 canary rockfish; and 10 sablefish per day.

NMFS is proposing, consistent with the Council's recommendation, a new sub-bag limit of five canary rockfish per angler within the longleader bag limit. This sub-bag limit would be used to mitigate the decrease in the coastwide ACL and recreational allocation for canary rockfish. The Council also recommended a new bag limit for sablefish. As explained in the Council Analytical Document (Agenda Item F.6 Attachment 2, June 2024), sablefish encounters and catches have increased in all sectors (including the Oregon recreational fishery), as larger recruitment classes of sablefish have entered into the different fisheries. Sablefish are not a targeted species in the Oregon recreational fishery; however, they are encountered during offshore Pacific halibut fishing trips and/or offshore longleader trips. Recreational anglers off Oregon are allowed to retain sablefish during a

longleader trip, however, under current regulations, the sablefish bag limit is part of the general marine bag limit (*i.e.,* maximum of 10), which is smaller than the longleader bag limit (*i.e.,* maximum of 12). Sablefish, at present, must count as part of the 12-fish longleader bag limit. Removing sablefish from the marine bag and creating a new sablefish bag limit of 10 avoids regulatory complexity, as anglers would then be allowed to retain 10 sablefish in addition to the 12-fish longleader bag limit. Additionally, a 10-fish sablefish bag limit allows anglers to retain more sablefish in conjunction with the longleader bag limit. This measure will likely decrease regulatory discards and provide an additional opportunity for recreational anglers that fish offshore. For more information on the proposed management measures for the Oregon recreational fishery, see the Council Analytical Document and the Oregon Department of Fish and Wildlife reports from the April 2024 Council meeting (Agenda Item F.5.a Supplemental ODFW Report 1, April 2024).

California

The Council manages recreational fisheries in waters seaward of California in five separate management areas. Season and area closures differ between California management areas to limit incidental catch of overfished stocks and stocks of concern while providing as much recreational fishing opportunity as possible. The Council's recommended California season structure for 2025 and 2026 is the same as the structure adopted by the Council for 2024 recreational fisheries in California (Agenda Item F.8.a CDFW Supplemental Report 2, March 2024; Agenda Item F.5.a Supplemental CDFW Report 1 April 2024).

In the Northern Management Area (42° N lat. to 40°10′ N lat.), the Mendocino Management Area (40°10′ N lat. to 38°57.5′ N lat.), the San Francisco Management Area (38°57.5′ N lat. to 37°11′ N lat.), and part of the Central Management Area (37°11′ N lat. to 36° N lat.), the fishery for California rockfish, cabezon, greenling complex (RCG complex), as defined at 50 CFR 660.360(c)(3)(ii), and the fishery for lingcod would be closed January 1 to March 31, open seaward of 50 fm (91 m) from April 1 to April 31, closed in the EEZ from May 1 to September 30, open seaward of 50 fm (91 m) from October 1 to October 31, closed in the EEZ, and open seaward of 50 fm (91 m) from December 1 to December 31.

In the other portion of the Central Management Area (36° N lat. to 34°27′ N lat.) and the Southern Management Area (34°27′ N lat. to U.S./Mexico border), the RCG complex fishery and the lingcod fishery would be closed January 1 to March 31, open in all depths April 1 to June 30, open in the EEZ shoreward of 50 fm (91 m) from July 1 to September 30, and open seaward of 50 fm (91 m) from October 1 to December 31. Recreational groundfish fishing opportunities in state waters may differ and would be announced separately by the California Department of Fish and Wildlife (CDFW).

Table 13 shows the proposed season structure and depth limits by management area in 2025 and 2026 for the RCG complex fishery and lingcod fishery.

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Table 13 -- Proposed Season Structure and Depth Limits by Management Area for the 2025-2026 in the California RCG Complex and Lingcod Fisheries

Management Area	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Northern (42° N lat. to 40°10' N lat.)	CLOSED			>50 fm	Closed in the EEZ[A]					>50 fm	Closed in the EEZ[A]	>50 fm
Mendocino (40°10' N lat. to 38°57.50' N lat.)	CLOSED			>50 fm	Closed in the EEZ[a/]					>50 fm	Closed in the EEZ[A]	>50 fm
San Francisco (38°57.50' N lat. to 37°11' N lat.)	CLOSED			>50 fm	Closed in the EEZ[a/]					>50 fm	Closed in the EEZ[A]	>50 fm
Central (37°11' N lat. to 36° N lat.)	CLOSED			>50 fm	Closed in the EEZ[a/]					>50 fm	Closed in the EEZ[A]	>50 fm
Central (36° N lat. to 34°27' N lat.)	CLOSED			All Depth			<50 fm in the EEZ			>50 fm		
Southern (South of 34°27' N lat.)	CLOSED			All Depth			<50 fm in the EEZ			>50 fm		

[a/] See California state regulations for state water fishing opportunities

BILLING CODE 3510–22–C

The use of the 50 fm line in the table above constitutes the Recreational RCA line for the start of the 2025–26 biennium, but the Council could recommend to use a different fm line via an inseason action. In other words, the line approximating the 50 fm depth contour would be the line used for the ''offshore fishery,'' where fishing can be open seaward of the single fm line, as opposed to across a range of depths between two fm lines, which is how RCA closures are typically structured. This management measure was implemented in the 2023–24 biennium (87 FR 77007; December 16, 2022) and used for the first time via the Council's September 2023 inseason action (88 FR 67656; October 2, 2023).

In 2023–24, Federal regulations required that recreational vessels be in continuous transit when motoring back to port during times where an offshore fishery was in place. However, these regulations inadvertently prevented recreational vessels from anchoring overnight shoreward of a Recreational RCA during unfavorable weather conditions or during multi-day trips, thus creating safety-at-sea concerns. Additionally, these regulations inadvertently prevented recreational vessels from fishing for non-groundfish species (*e.g.,* lobster) that they would typically target alongside groundfish. NMFS published a temporary emergency rule to address this issue on April 1, 2024 (89 FR 22352). To address these concerns for the 2025–26 biennium and beyond, NMFS is proposing, consistent with the Council's recommendation, a new management measure that would allow recreational vessels to stop and/or anchor in Federal waters shoreward of the Recreational RCA line, provided that no hook-and-line gear is deployed. This management measure is described in greater detail in the Analysis and below in section III.N.

NMFS is proposing, consistent with the Council's recommendation, the continuation of all the same bag and sub-bag limits from 2024 for the RCG complex, lingcod, Other flatfish, petrale sole, starry flounder, and California scorpionfish. With the exception of the seasonal Recreational RCA boundaries described above in table 13, all other area closures would remain the same as 2024 for 2025–26 (*i.e.,* Cordell Bank GCA, YRCAs, GEAs, and EFHCAs).

NMFS is proposing, consistent with the Council's recommendation, to remove size limit requirements for cabezon, greenlings, and California scorpionfish. NMFS is also proposing to remove the filet length requirement for California scorpion fish and modifying the filet requirements for cabezon, greenlings, California scorpionfish, and lingcod. Current regulations prohibit fileting cabezon and greenlings at sea (50 CFR 660.360(c)(3)(ii)(D)) and specify minimum size requirements (50 CFR 660.360(c)(3)(ii)(C)). California scorpion fish are allowed to be fileted at sea provided that filets are no smaller than 5 in (12.8 cm) and bear an intact 1 in (2.6 cm) square patch of skin (50 CFR 660.360(c)(3)(v)(D)); there is also a minimum size requirement of 10 in (25 cm) (50 CFR 660.360(c)(3)(v)(C)). Lingcod is also allowed to be fileted at sea provided that filets are no smaller than 14 in (36 cm) in length and that each filet bear an intact 1 in (2.6 cm) square patch of skin. The Council recommended to change these regulations to remove the size limits and instead allow fishermen to filet both cabezon and greenlings at sea. In addition, the Council recommended to remove the size limit for California scorpionfish, and modify the filet requirements for cabezon, greenlings, California scorpionfish and lingcod so that the skin is required to be left on the filet, which would improve the ability for enforcement officers to distinguish between filets of these four species, which closely resemble one another. Cabezon, greenling, and California scorpionfish are commonly captured along with rockfish on recreational trips. Size limit restrictions and filet regulations prevent commercial passenger fishing vessel (CPFV) operators and recreational anglers from fileting all species aboard the vessel at sea since, regulations that require fish with a size limit, but no filet length requirement, must be landed whole (50 CFR 660.360(c)(3)(ii)(D)). This process increases time and cost as anglers need to wait to filet certain species when they return to port. These changes are anticipated to reduce operational constraints for CPFVs. See the Council Analytical Document (Agenda Item F.6 Attachment 2, June 2024) for more information on these proposed changes.

I. Exempted Fishing Permits

Issuing EFPs is authorized by regulations implementing the MSA at 50 CFR 600.745, which state that EFPs may be used to authorize fishing activities that would otherwise be prohibited.

At its June 2024 meeting, the Council recommended that NMFS approve two EFP applications for the 2025 fishing year and preliminarily approve the EFP applications for the 2026 fishing year. The Council considers EFP applications concurrently with the biennial harvest specifications and management process because expected catch under most EFP projects is included in the catch limits for groundfish stocks. All of the EFP applications for 2025–26 are renewals from previous biennia. A summary of each EFP application is provided below:

- *Groundfish EFP Proposal—Year-round Coastwide Midwater Rockfish EFP: Monitoring and Minimizing Salmon Bycatch When Targeting Rockfish in the Shorebased IFQ Fishery, 2025–2026:* West Coast Seafood Processors, Oregon Trawl Commission, Midwater Trawlers Cooperative, and the Environmental Defense Fund submitted a renewal application to continue research that has been conducted since 2017; the multi-year EFP project is collectively referred to as the ''Trawl Gear EFP.'' The purpose of the EFP is for vessels participating in the West Coast Groundfish Trawl Rationalization Program's Limited Entry Shorebased IFQ Program to test whether removing certain gear, time, and area restrictions may impact the nature and extent of bycatch of protected and prohibited species (*i.e.,* Chinook salmon, coho, eulachon, and green sturgeon). The EFP project would require exemptions for vessels fishing with bottom trawl groundfish gear from: (1) the requirement to use selective flatfish trawl gear, and the prohibition on using small footrope gear other than selective flatfish trawl gear between 42° and 40°10′ N lat. and shoreward of the boundary line approximating the 100 fm depth contour (see 50 CFR 660.130(c)(2)(i) and (c)(2)(ii)); and (2) the requirement that selective flatfish trawl must be a two-seamed net with no more than two riblines, excluding the codend (see 50 CFR 660.130(b)(1)(ii)(A)). The EFP project would require exemptions for vessels fishing with midwater trawl groundfish gear from: (1) the prohibition on fishing outside the primary season dates for the Pacific whiting IFQ fishery (see 50 CFR 660.112(b)(1)(x) and § 660.130(c)(3)); and (2) the prohibition on fishing south of 40°10′ N lat. shoreward of the boundary line approximating the 150 fm depth contour (see § 660.130(c)(3)(ii) and (c)(4)(ii)(B)). The EFP project would require exemptions for vessels fishing with either midwater or bottom trawl groundfish gear from: (1) the prohibition on retaining certain prohibited species (see § 660.12 (a)(1)); and (2) the requirement to discard certain prohibited species at sea (see § 660.140 (g)(1)). If this EFP is approved, NMFS would set a bycatch limit of 1,000 Chinook salmon north of 42° N lat. and 100 Chinook salmon south of 42° N lat. for vessels declared into the EFP, regardless of gear type. If either of these

bycatch limits are reached, NMFS would revoke the EFP for both gear types in the respective management area (*i.e.,* north or south of 42° N lat.). Participating vessels would also be required to retain all salmon (excluding salmon already sampled by NMFS' West Coast Groundfish Observer Program) until offloading. If approved, NMFS would authorize up to 60 vessels to participate in the EFP.

• *Groundfish EFP Proposal—California Department of Fish and Wildlife 2025–2026 EFP:* The CDFW submitted a renewal application for research that has been conducted since 2021. The purpose of the EFP project is to collect fishery-dependent biological data for cowcod for inclusion in future stock assessments. For the 2025–26 biennium, CDFW added yelloweye rockfish and California quillback rockfish to this scope to also collect fishery-dependent biological data for these species. The EFP project would require an exemption from the prohibition on retention of cowcod, yelloweye rockfish, and California quillback rockfish in the California recreational fishery (see § 660.360(c)(3)). The EFP would also provide that any cowcod, yelloweye rockfish, or California quillback rockfish taken and retained would not count against the recreational bag limit for the aggregate of rockfish, cabezon, and greenlings. If approved, NMFS would authorize up to 30 vessels that participate in the California recreational CPFV fishery to retain these species for transfer to CDFW groundfish staff upon landing.

Neither of these EFP projects request set-asides as off-the-top deductions from the 2025–26 applicable ACLs. For the Trawl Gear EFP, landings and discards of IFQ species would be accounted for through the participating vessel's IFQ. For the CDFW EFP, all mortality is expected to occur in conjunction with routine recreational fishing activities and would be calculated as part of the normal recreational catch estimation process. NMFS would not require 100 percent observer coverage for vessels participating in the CDFW EFP project because recreational vessels do not meet the minimum size requirements under Federal regulations to carry an observer.

NMFS does not expect any impacts to the environment, essential fish habitat, or protected or prohibited species from these EFPs beyond those analyzed for the groundfish fishery as a whole in applicable biological opinions (available at *https://www.fisheries.noaa.gov/species/west-coast-groundfish#management*), the draft Analysis (see **ADDRESSES**), or the EA for the 2018 Trawl Gear EFP dated December 2017 (available at: *https://www.fisheries.noaa.gov/region/west-coast*).

After publication of this document in the **Federal Register**, NMFS may approve and issue permits for the proposed EFP projects for the 2025 fishing year after the close of the public comment period. Both EFP applications are available under ''Supporting and Related Materials'' (see **ADDRESSES**). NMFS will consider comments submitted in deciding whether to approve the applications as requested. NMFS may approve the applications in their entirety or may make any alterations needed to achieve the goals of the EFP projects. NMFS would not issue another **Federal Register** notice soliciting public comment on renewing these EFP projects for 2026 unless: (1) the applicants modify and resubmit their applications to NMFS; (2) changes to relevant fisheries regulations warrant a revised set of exemptions authorized under the EFP projects; or (3) NMFS' understanding of the current biological and economic impacts from EFP fishing activities substantially changes.

J. Permit Program for the Directed Open Access Fishery Sector

NMFS is proposing, consistent with the Council's recommendation, a new permit program for the directed OA sector. The directed OA fishery is defined in 50 CFR 660.11 under ''open access fishery'' and includes those vessels targeting groundfish pursuant to the OA regulations under Part 660 subpart F. It does not include vessels that retain groundfish incidentally to non-groundfish target species (*e.g.,* the salmon troll fishery, which often retains incidentally caught groundfish).

The purpose of this new management measure is to better track and account for participation in the directed OA sector, thus enabling the Council and NMFS to better account for impacts to and from this sector. The directed OA sector has grown substantially since it was first established alongside the LE sectors in amendment 6 to the PCGFMP (57 FR 54001; Nov 16 1992). Although the Council can generally identify participants via landing receipts and declarations, the lack of an official registry of directed OA participants has created ongoing challenges with: (1) developing management measures for the directed OA fishery; (2) communicating new regulations to the directed OA sector (*e.g.,* the non-trawl logbook), and; (3) the West Coast Groundfish Observer Program's ability to target and sample specific gear types in this sector. This permit program would help alleviate these challenges, as NMFS would have an official list of the participants with their contact and vessel information, as well as advanced notice of when they intend to participate in the directed OA fishery. Additionally, the ability to better tailor observer coverage to this sector would help verify impacts from non-bottom contact hook-and-line gear types that were recently approved for use inside the Non-Trawl RCA starting in 2023 (87 FR 77007; January 1, 2023).

The permit program would require vessels that intend to participate in the directed OA sector to register their information, pay an administrative fee, and obtain a permit on an annual basis. Permits would expire on the last day of the birth month of the permit holder. The number of permits would not be capped. Permits will be assigned to a vessel owner per vessel (*i.e.,* if an owner intends to use two vessels in the directed OA fishery, they would need to obtain two permits, one for each vessel). Applications would be available year-round with an estimated 2-week turnaround between when an applicant submits a complete application and when a permit would be issued; therefore, directed open access participants would need to do some short-term planning ahead for their participation in the sector. NMFS proposes to use its existing web-based application with digital submission and delivery of the permit applications and to allow participants to provide either digital or paper proof of permit upon request. Required application information would include vessel ownership documentation from either the U.S. Coast Guard or state registration form. Permit lists would be shared with the WCGOP for observer selection purposes.

All permits issued by NMFS carry an administrative cost, per the requirements for user fees based on the provision of a service. These costs vary based on the administrative costs of receiving applications, reviewing applications and any association required documentation, and issuing permits as a factor of the number of expected applications. The amount of the fee would be determined in accordance with the NOAA Finance Handbook available at *https://www.corporateservices.noaa.gov/finance/documents/NOAAFinanceHBTOC_09.06.19.pdf* and would be specified on the application form. The fee may not exceed the administrative costs and must be submitted with the application for the application to be considered complete. Annual permit fees across West Coast fisheries currently range from $18 for

the limited entry drift gillnet permit to $170 for the groundfish limited entry permit. Permit fees are recalculated on a regular basis and may decrease after initial implementation due to on-going operating costs being lower than administrative costs. NMFS expects the cost of the directed open access permit to be on the lower end of the cost range.

NMFS may require that fishermen provide vessel monitoring system (VMS) information during the application process for a directed OA permit. The purpose of this requirement would be to ensure that all directed OA permittees are in compliance with VMS regulations. If NMFS chooses to require VMS information, notification will be provided in the final rule. NMFS welcomes public comment on this potential requirement. Additionally, NMFS may also restrict the ability to dual declare both a directed OA declaration code (codes 33 through 37 at § 660.13(d)(4)(iv)(A) and an IOA declaration code. The purpose of this restriction would be to better delineate directed OA fishermen from IOA fishermen. If NMFS chooses to move forward with this restriction, additional language would be added to § 660.13(d)(4)(iv) specifying the restriction in the final rule. NMFS also welcomes public comment on this potential restriction.

When the permit program is established, NMFS will do appropriate outreach to communicate instructions to the fleet. For more information on this new management measure see Council Analytical Document (Agenda Item F.6 Attachment 2, June 2024) and the NMFS report from the June 2024 Council meeting (Agenda Item F.6.a NMFS Report 1, June 2024).

K. Update Electronic Monitoring Program Discard and Retention Requirements

NMFS is proposing, consistent with the Council's recommendation, modifications to the regulations pertaining to discard and retention requirements in the Electronic Monitoring (EM) program for non-IFQ species, to include sablefish and rex sole, and to exclude California halibut. An EFP project designed to test EM to determine its efficacy for monitoring the groundfish trawl fishery and the at-sea Pacific whiting fishery, in lieu of human observers, occurred from 2015–2023. During the past 8 years, the Pacific States Marine Fisheries Commission has conducted video review analysis of EM. Improved catch handling from vessel crew, as well as the improved ability to reliably identify more species on camera from video reviewers over time has resulted in the allowable discards list to expand under the EFP. However, inadvertently, both sablefish and rex sole have been missing from the discard list specified in regulation, whereas the Vessel Monitoring Plan does list these stocks. Additionally, as currently written, the regulations are in conflict with regard to the rules for California halibut catch handling. The regulations require vessels to *discard* the non-IFQ species California halibut ''except as allowed by state regulations'' at 50 CFR 660.604(p)(4)(ii), but under 50 CFR 660.604(p)(4)(i), the vessel must *retain* this species. The addition of sablefish and rex sole to the existing list in regulations, and removing California halibut from them, would align current practices under the EFP.

L. Shortspine Thornyhead Allocation Framework

The Council recommended, and NMFS is proposing, modifying the allocation framework for shortspine thornyhead. These modifications would include removing the management line at 34°27′ N lat. and combining the area-specific ACLs, off-the-top deductions, HGs, and trawl/non-trawl allocations that would have otherwise been assigned north and south of 34°27′ N lat.

Shortspine thornyhead's allocation structure was established via amendment 21 to the PCGFMP (see *pcouncil.org*). It has a coastwide OFL and ABC, and two area-specific ACLs and fishery HGs for north and south of 34°27′ N lat. The ACL apportionment method is based on the available data (2003–2012) from the NWFSC WCGBT survey at the time of the previous assessment conducted in 2013, which has resulted in approximately 70 percent of the biomass estimated north of 34°27′ N lat. for the past 5 years (Agenda Item E.5.a, Supplemental GMT Report 1, November 2023). For north of 34°27′ N lat., the trawl sector is allocated 95 percent of the HG and the non-trawl sector is allocated 5 percent of the HG. For south of 34°27′ N lat., the trawl sector is allocated a fixed 50 mt of the HG, and the non-trawl sector receives the remainder of the HG. Thus, the percent allocation of each sector's HG in the area south of 34°27′ N lat. has fluctuated from year to year, depending on the biomass of the stock and resulting ACL and HG.

As a result of the 2023 stock assessment (Agenda Item G.2 Attachment 4, September 2023), which indicates the stock will be in the precautionary zone, shortspine thornyhead ACLs in the 2025–26 biennium are expected to be constraining for both the trawl and non-trawl sectors in the area north of 34°27′ N lat. For the trawl sector in the north, there would be substantial IFQ reductions. For the non-trawl sector in the north, trip limits for the LEFG fishery would have to be so low that a targeted fishery is unlikely to be viable. Shortspine thornyhead has been chronically under-attained in the area south of 34°27′ N lat.; therefore, combining the trawl and non-trawl allocations into coastwide allocations would allow for more flexible use in issuing trawl quota and setting non-trawl trip limits. The stock occurs coastwide without known finer-scale population structure. The separate ACLs are a relic of the management system, rather than a tool to address any biological or ecological issue. To achieve the proposed combination, the Council and NMFS would change shortspine thornyhead to a 2-year allocation species (*i.e.,* trawl/non-trawl allocation amounts would be set biennially as opposed to specified in the PCGFMP) and set a coastwide ACL and HG (as opposed to two area-specific ACLs and HGs) for 2025 and beyond. The trawl/non-trawl allocation at the outset of the recombination in 2025 would be 64 percent of the HG to the trawl sector and 36 percent of the HG to the non-trawl sector. For 2026, the Council recommended that 71 percent of the coastwide HG be allocated to the trawl sector and 29 percent of the HG be allocated to the non-trawl sector. These allocation amounts may be revisited by the Council in future biennia.

Shortspine thornyhead was recently defined as a coastwide stock via amendment 31 (88 FR 78677; November 16, 2023). Therefore, the removal of the management line is consistent with the best scientific information available, which indicates there is no biological need for different management strategies north and south of 34°27′ N lat. However, recent data from the NWFSC WCGBT survey indicates that approximately 70 percent of the stock has resided north of 34°27′ N lat. and 30 percent has resided south in the past 5 years, and the separate ACLs had been apportioned accordingly. Since this new management measure would create a coastwide allocation, there will likely be more effort in the area north of 34°27′ N lat., than there otherwise would be if the management line were not removed and the area-specific ACLs and HGs remained. Consequently, the Council recommended the continuation of setting different trip limits for the LEFG and OA fisheries north and south of 34°27′ N lat. to maintain their ability to manage effort in each area. The

proposed trip limits are provided in table 2b (LEFG) and table 3b (OA) in the regulatory changes presented in this proposed rule. The Council also recommended setting an ACT in the area north of 34°27′ N lat. This would provide a mechanism to slow the concentration of effort in the northern non-trawl fishery. The proposed ACTs for shortspine thornyhead are 67 mt and 55 mt for 2025 and 2026, respectively. For more information on this management measure, see the Council Analytical Document (Agenda Item F.6 Attachment 2, June 2024).

M. Requirement for Recreational Vessels To Possess a Descending Device

NMFS is proposing, consistent with the Council's recommendation, a new management measure that would require recreational vessels fishing in Federal waters seaward of Washington, Oregon, or California, to possess a functional descending device. A descending device is a tool used to return fish that suffer from barotrauma to depth of capture. Barotrauma is a condition caused by rapid decompression when a fish is reeled up from depth (high pressure) to the surface (low pressure), which can cause multiple physiological changes, notably an inflated swim bladder. When rockfish suffering from barotrauma are released at the surface, their ability to return to depth on their own is compromised due to the inability of the fish to vent the gas from the swim bladder. This can result in increased mortality, either due to surface depredation (*e.g.,* from birds, marine mammals, *etc.*) or physiological trauma. Returning a fish to depth can reverse the physiological effects of barotrauma and can reduce mortality of released fish. Therefore, this new management measure would reduce mortality of rockfish species in the Pacific Coast groundfish recreational fisheries by increasing the likelihood that discarded species will be returned to depth.

The requirement would be one functional descending device per vessel, regardless of the number of anglers onboard. Although each of the respective states have their own requirements, those requirements are only applicable in State waters. This management measure would apply to any vessel fishing for groundfish under recreational catch limits in Federal waters, thus creating continuity across state and Federal regulations. Anglers would be required to present the descending device at the request of an enforcement officer. For information on this management measure, see the Analysis.

N. Modification to Continuous Transit Limitations for California Recreational Vessels

NMFS is proposing, consistent with the Council's recommendation, modifications to the continuous transit regulations for California recreational vessels. These changes would allow recreational vessels to stop and/or anchor in Federal waters shoreward of a Recreational RCA line, provided that no hook-and-line gear is deployed. At their September 2023 meeting, the Council recommended that California recreational fishing vessels be required to fish seaward of the Recreational RCA line (*i.e.,* the 50 fm depth contour, a management measure also known as the ''offshore fishery'') for the remainder of 2023, consistent with California state action implemented on August 21, 2023. The purpose of this action was to protect nearshore-dwelling California quillback rockfish, a stock that was declared overfished by NMFS in December 2023. Like other groundfish closures that exist in Federal waters, continuous transit rules apply when a Recreational RCA line is in effect, which means recreational vessels may only be transiting shoreward of 50 fm depth contour on their way back to port (see 50 CFR 660.360(c)(3)(i)(a)). Industry representatives brought up early concerns that these continuous transit rules, in conjunction with similar transit rules that were applicable in California state waters at the time, prevent recreational vessels from: (1) anchoring overnight on multi-day charter trips, either planned or for safety shoreward of 50 fm (91 m), and (2) anchoring to fish for non-groundfish species (*e.g.,* lobster or Dungeness crabs with traps) shoreward of 50 fm (91 m). The lack of ability to do these activities creates significant safety-at-sea concerns and forces charter companies to cancel fishing trips that typically offer a variety of target species, both groundfish and non-groundfish (primarily invertebrate targets).

NMFS took temporary emergency action to modify the continuous transit regulations for the 2024 fishing year (89 FR 22352; April 1, 2024). The Council recommended the same modifications be made permanent through this action for the 2025–26 biennium and beyond. Similar to the emergency action (89 FR 22352; April 1, 2024), this new management measure is expected to prevent the cancellation of thousands of multi-day or groundfish/non-groundfish recreational fishing trips. For more information on this management measure, see the Analysis.

O. Change to the Scientific Name of Pacific Sand Lance and the Common Name of Pacific Spiny Dogfish

NMFS is proposing, consistent with the Council's recommendation, administrative changes to the regulations that would correct the scientific name of Pacific sand lance and the common name of Pacific spiny dogfish. The scientific name for Pacific sand lance at § 660.5(a) is incorrectly listed as *Ammodytes hexapterus.* The correct scientific name for this species is *Ammodytes personatus.* The common name for spiny dogfish *(Squalus suckleyi)* has changed to include ''Pacific'' thus the correct common name is Pacific Spiny Dogfish.

P. Rebuilding Plan for California Quillback Rockfish

NMFS is proposing, consistent with the Council's recommendation, the implementation of a rebuilding plan for quillback rockfish off California. NMFS declared quillback rockfish off California overfished in December 2023 in response to a data-moderate assessment conducted by the NWFSC in 2021 (Agenda Item E.2, Attachment 4, November 2021). When NMFS declares a stock overfished, the Council must develop and manage the stock in accordance with a rebuilding plan (50 CFR 600.310(j)), which must include certain rebuilding parameters, including Tmin, Tmax, and Ttarget. Tmin means the amount of time the stock or stock complex is expected to take to rebuild to its MSY biomass level in the absence of any fishing mortality (50 CFR 600.310(j)(3)(i)(A)). Tmax means the maximum time for rebuilding a stock or stock complex to its MSY biomass and can be 10 years or more depending on the value of Tmin (50 CFR 600.310(j)(3)(i)(B)). If Tmin for the stock or stock complex exceeds 10 years, then Tmax must be calculated as Tmin plus the length of time associated with one generation time for that stock or stock complex. ''Generation time'' is the average length of time between when an individual is born and the birth of its offspring. Ttarget means the specified time period for rebuilding a stock that is considered to be as short a time as possible, taking into account the status and biology of the overfished stock, the needs of fishing communities, recommendations by international organizations in which the U.S. participates, and interaction of the stock within the marine ecosystem (50 CFR 600.310(j)(3)(i)(C) and 50 CFR 600.310(j)(3)(i)). In March 2024, the Council adopted the California quillback rockfish rebuilding analysis

(Agenda Item F.2 Attachment 1, March 2024), which specified the following rebuilding parameters: Tmin = 2045, Tmax = 2071, and mean generation time of 26 years. Ttarget (2060) was selected by the Council based on the chosen rebuilding strategy described below.

To meet rebuilding plan requirements, the Council considered a range of alternative harvest control rules during the development of this action (Agenda Item F.6 Supplemental Revised Attachment 3, June 2024). The four harvest control rules considered include: (1) Alternative 1 – ACL SPR = 0.55 < ABC P* 0.45; (2) Alternative 2 – the ABC rule, P* 0.45; (3) Alternative 3 – CDFW alternative; and (4) Alternative 4 – F = 0. The Council considered but removed Alternative 1 and Alternative 3 from further consideration at the April 2024 meeting. Alternative 1 would rebuild the stock by 2071 (Tmax), however, the Council rejected Alternative 1 as, when compared to Alternative 2, Alternative 1 delays rebuilding by two years and with a lower probability of rebuilding (69.4 percent) by Tmax. Alternative 3 was not selected for further consideration because it failed to meet technical and legal requirements, as it would result in a catch limit substantially higher than the SSC-recommended OFL. Alternative 4 (F = 0) represents a harvest strategy that achieves zero fishing mortality and rebuilds the stock in the minimum amount of time. This strategy has a 50 percent probability of rebuilding the stock by 2045 and a 99.9 percent probability of rebuilding by 2071 (Tmax); however, to achieve F=0, all groundfish and non-groundfish fisheries that encounter California quillback rockfish would need to be closed, which would cause devastating short-term economic impacts to California fishing communities. Table 14 below shows what the resulting harvest specifications would be under each rebuilding strategy for comparison.

TABLE 14—HARVEST SPECIFICATIONS FOR OFL AND ACL RESULTING FROM REBUILDING STRATEGIES GIVEN THE ASSUMED REMOVALS FOR 2021–2024

CA quillback rockfish	Harvest control rule [a]		
	Alternative 1	Alternative 2	Alternative 4
	SPR 0.55	ABC rule (P* 0.45)	F = 0 (*i.e.,* no fishing mortality)
2025 OFL/ACL (mt)	1.52/1.26	1.52/1.30	1.52/0
2026 OFL/ACL (mt)	1.77/1.47	1.77/1.50	1.81/0
SPR	0.55	.....	1.0
T_{TARGET}	2062	2060	2045
T_{MAX}	2071	2071	2071
Probability of recovery by T_{MAX}	0.694	0.736	0.999

[a] Alternative 3 is not included in this table because it was not part of the range included in the rebuilding analysis.

NMFS is proposing, consistent with the Council's recommendation, the ABC control rule as the rebuilding plan harvest strategy (Alternative 2). This rebuilding strategy sets the ABC by applying the maximum management risk tolerance (P* 0.45) and the standard scientific uncertainty (time-varying σ) reduction to the OFL. As shown in the Analysis, this rebuilding strategy has a 50 percent probability of rebuilding the stock by 2060 (Ttarget) and 73.6 percent probability of rebuilding by 2071. Accordingly, this alternative will rebuild the stock within the MSA-mandated timeframe, while still providing some fishing opportunity to meet the needs of the fishing communities.

The Analysis explains that if the rebuilding plan were set to rebuild the stock as fast as possible (*i.e.,* F = 0), the necessary full fishery closures across all groundfish fisheries off of California would devastate numerous fishing businesses and communities. Given the target length of time to rebuild under the F = 0 strategy, it's likely that many California communities could lose vital infrastructure that would impede future engagement in the groundfish fisheries even after California quillback rockfish was rebuilt. Therefore, the Council recommended, and NMFS is proposing, slower rebuilding in order to allow for very limited mortality of co-occurring quillback rockfish, so that other healthy groundfish targets can be caught in recreational and commercial fisheries. For additional information on the range of alternative harvest control rules considered, see the Analysis.

As noted above, the majority of quillback rockfish fishing mortality occurs in state waters. The proposed rebuilding plan only applies in the EEZ. NMFS expects to work cooperatively with the CDFW on any measures the state deems fit to apply in state waters to support rebuilding throughout the stock's range. Mortality of California quillback rockfish in state waters will be deducted from the Federal ACL.

Q. Corrections

This rulemaking proposes minor corrections to the regulations at 50 CFR part 660. These minor corrections are necessary to reduce confusion and inconsistencies in the regulatory text, alleviate enforcement challenges, and ensure the regulations accurately implement the Council's intent.

At § 660.11, NMFS proposes to remove the definition for ''grandfathered or first generation'' because it is a term that is no longer used in Federal regulations.

At § 660.13, NMFS proposes to make various changes to the non-trawl logbook regulations. First, at § 660.13(a)(3)(ii)(A) and (B), NMFS proposes amending the regulations to clarify that information on setting and retrieving gear must be recorded for every set. The regulations as written: ''Logbook entries for setting gear, including vessel information, gear specifications, set date/time/location, must be completed within 2 hours of setting gear'' have led to enforcement challenges because some fishermen have interpreted the regulations to mean that they are only required to record information once all of their gear is deployed (*i.e.,* if they set a portion of their gear on one day, and the rest of their gear the next day, they interpret that to mean the 2-hour requirement starts after the last piece of gear is set). Amending these regulations will clarify that the 2-hour and 4-hour requirements for setting and retrieving gear apply to each individual set. Second, at § 660.13(a)(3)(ii)(A) and (B), NMFS is

proposing to clarify that all logbook information, whether recorded inside or outside of the electronic application, must be available at-sea for review by an enforcement officer. The regulations as written: ''Information recorded outside of the logbook entry must be available for review at-sea by authorized law enforcement personnel upon request'' have led to enforcement challenges because some fishermen have interpreted the regulations to mean they are only required to show enforcement officers logbook data that they have recorded outside of the electronic application. Amending these regulations will clarify that all logbook data, whether recorded in the electronic application or by some other method, must be available for review by an enforcement officer. Last, NMFS proposes to remove the paragraph at § 660.13(a)(4), as the non-trawl paper logbook provision will expire at the end of 2024 and this regulation will no longer be relevant starting in 2025.

At § 660.55(i)(2), NMFS proposes to clarify that at-sea set-asides are described in the biennial specifications process and not ''in Tables 1D and 2D of this subpart'' as currently stated.

At § 660.60(c)(1)(i), NMFS proposes to remove the cross reference to ''(c)(1)(i)(A) and (B) of this section'' as those references no longer exist.

At § 660.60(g) and § 660.65, NMFS proposes to clarify language about how catch of groundfish species in state waters is accounted for under Federal harvest specifications.

At § 660.140(g), NMFS proposes to add a sentence clarifying that IFQ species with discard mortality rates (DMRs) should be appropriately accounted for when deducting discard amounts from quota pounds (QP) in vessel accounts. As currently written, the regulations state that discarded species must be accounted for and deducted from QP in vessels accounts, but it does not state that the species with reduced discard amounts because of DMRs should be accounted for when deducting discard amounts from QP in vessels accounts. Revising this regulation would clarify that IFQ species with DMRs should also be accounted for when deducting discard amounts from QP in vessel accounts.

At § 660.230 and § 660.330(b), NMFS is proposing to remove the 25-hook maximum limit on each mainline. As written, the regulations preclude fishermen from adjusting the number of hooks on mainlines if they are using fewer than four mainlines. For example, if a fisherman chooses to only have two mainlines in the water, then the intent of the regulations is to allow a maximum of 50 hooks on each mainline. However, as written, the fisherman would still only be able to use 25 hooks per mainline. The gear specifications require that no more than 100 hooks may be in the water, therefore, removing the 25-hook maximum will not change the intent of the regulations.

At § 660.231, NMFS is proposing to revise the paragraph at (b)(3)(iv) to improve readability. The purpose of these revisions is to make the regulatory text less confusing for fishermen and enforcement to interpret. No substantive changes to this regulation are being proposed.

IV. Classification

Pursuant to § 304(b)(1)(A) and 305(d) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the PCGFMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment. In making its final determination, NMFS will take into account the complete record, including the data, views, and comments received during the comment period.

Pursuant to Executive Order 13175, this proposed rule was developed after meaningful consultation and collaboration with Tribal officials from the area covered by the PCGFMP. Under the MSA at 16 U.S.C. 1852(b)(5), one of the voting members of the Council must be a representative of an Indian Tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, regulations implementing the PCGFMP establish a procedure by which the Tribes with treaty fishing rights in the area covered by the PCGFMP request new allocations or regulations specific to the Tribes, in writing, before the first of the two meetings at which the Council considers groundfish management measures. The regulations at 50 CFR 660.50 further direct NMFS to develop Tribal allocations and regulations in consultation with the affected Tribes. The Tribal management measures in this proposed rule have been developed following these procedures. The Tribal representative on the Council made a motion to adopt the non-whiting Tribal management measures, which was passed by the Council. Those management measures, which were developed and proposed by the Tribes, are included in this proposed rule.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an Analysis for this action, which addresses the statutory requirements of the MSA, Presidential Executive Order 12866, and the RFA. The full suite of alternatives analyzed by the Council can be found on the Council's website at *www.pcouncil.org.* NMFS addressed the statutory requirements of the NEPA through preparation of an EA, which is included in the Analysis. This action announces a public comment period on the draft EA (see **ADDRESSES**).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The following small entities may be affected by this action: (1) an estimated 6 businesses primarily engaged in seafood product preparation and packaging and employing 750 or fewer persons; (2) an estimated 1,019 commercial fishing businesses with less than $11 million in annual gross receipts; (3) an estimated 357 charter fishing boats all of which are assumed to have annual receipts of less than $7.5 million and are therefore considered to be small businesses; (4) one governmental jurisdiction, with a population of less than 50,000 persons, and therefore considered small;(5) an estimated five not-for-profit organizations with combined annual receipts of less than $7.5 million; and (5) an estimated eight small trust, estates, and agency accounts with annual receipts of less than $32.5 million.

The purpose of this proposed rule is to conserve Pacific Coast groundfish stocks by preventing overfishing, while still allowing harvest opportunity among the various fishery sectors. This will be accomplished by implementing the 2025–26 biennial specifications in the U.S. EEZ off the West Coast. The harvest specifications affect large and small entities similarly, and for this biennium, the catch limit for sablefish (one of the most profitable stocks) is increasing, providing benefit to all participants. Additionally, this proposed rule contains new management measures that are likely to benefit vessels. Specifically, re-combining area-specific allocations for shortspine thornyhead is expected to relieve economic loss and provide additional fishing opportunity for non-trawl vessels north of 34°27′ N lat. The recreational sector may benefit from the proposed new management measure to require descending devices on board fishing vessel. Use of descending devices is known to reduce discard mortality, which may lead to potential

increases in opportunity. Although the continuation of restrictive management measures to reduce California quillback rockfish mortality from the 2023–24 biennium are proposed for continuation in the 2025–26 biennium, the Council is proposing a rebuilding plan strategy (*i.e.,* ABC Rule) that yields a slower rebuilding timeline than the strategy with the fastest rebuilding timeline (*i.e.,* F=0) in order to provide some fishing opportunity for co-occurring species. This is expected to sustain fishing communities during the rebuilding timeframe that would otherwise not be possible under the complete fishery closures that would be necessary under F=0. Based on the rationale above and contained in the Analysis (see **ADDRESSES**), NMFS has concluded that this proposed action would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget under the PRA. This proposed rule revises existing requirements for information collection 0648–0203, Northwest Region Federal Fisheries Permits. The main change to this collection is the addition of a new directed groundfish open access fishery permit. The addition of this permit will increase the number of respondents for this collection by 400 respondents. The public reporting burden for the directed groundfish open access permit is estimated to average 20 minutes per respondent, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This results in an additional 133 hours for the time burden for this collection (1,953 hours to 2,086 hours). The additional permit will also result in additional labor costs of $2,226.67 and $40,000 in miscellaneous costs to the public.

NMFS seeks public comment regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. NMFS also seeks public comment regarding the accuracy of the burden estimate, ways to enhance the quality, utility, and clarity of the information to be collected, and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under review'' or by using the search function and entering the title of the collection or the OMB Control Number.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 2, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. Amend part 660 by:
■ a. Removing the word ''non-coop'' and adding in its place the word ''non-cooperative'' wherever it appears;
■ b. Removing the word ''coop's'' and adding in its place the word ''cooperative's'' wherever it appears;
■ c. Removing the name ''nontrawl RCA'' and adding in its place the name ''Non-Trawl RCA'' wherever it appears; and
■ d. Removing the word ''nontrawl'' and adding in its place the word ''non-trawl'' wherever it appears.
■ 3. Amend § 660.5 by revising paragraph (a)(3) to read as follows:

§ 660.5 Shared Ecosystem Component Species.

(a) * * *

(3) Pacific sand lance (*Ammodytes personatus*)

* * * * *

■ 4. Amend § 660.11:
■ a. In the definition of ''Conservation areas(s)'' by removing paragraph (1)(v); redesignating paragraphs (1)(vi), (vii), and (viii) as paragraphs (1)(v), (vi), and (vii); and revising newly redesignated paragraphs (1)(vi)(A) and (B);
■ b. By removing the definition of ''Grandfathered or first generation'';
■ c. In the definition of ''Groundfish'' by revising paragraphs (1) and (7); and
■ d. In the definition of ''Open access fishery'' by revising paragraph (1) and adding paragraph (2).

The revisions and addition read as follows:

§ 660.11 General definitions.

* * * * *

Conservation area(s) * * *

(1) * * *

(vi) * * *

(A) *Trawl (Limited Entry and Open Access Non-groundfish Trawl Gears) RCAs.* The Trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates approximating depth contours. Boundaries for the limited entry Trawl RCA throughout the year are provided in table 1a (North) subpart D of this part. Boundaries for the open access non-groundfish Trawl RCA throughout the year are provided in § 660.333(e). Boundaries of the Trawl RCAs may be modified by NMFS inseason pursuant to § 660.60(c).

(B) *Non-Trawl (Limited Entry Fixed Gear and Open Access Non-trawl Gears) RCAs.* Non-Trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates approximating depth contours. Boundaries for the Non-Trawl RCA throughout the year are provided in tables 2a (North) and 2a (South) of subpart E of this part and tables 3a (North) and 3a (South) of subpart F of this part and may be modified by NMFS inseason pursuant to § 660.60(c).

* * * * *

Groundfish * * *

(1) *Sharks:* Leopard shark, *Triakis semifasciata;* soupfin shark, *Galeorhinus zyopterus;* Pacific spiny dogfish, *Squalus suckleyi.*

* * * * *

(7) *Rockfish:* ''Rockfish'' in the PCGFMP include all genera and species of the family Scorpaenidae that occur off Washington, Oregon, and California, even if not listed below, including longspine thornyhead, *Sebastolobus altivelis,* and shortspine thornyhead, *S. alascanus.* Where species below are listed both in a geographic category (nearshore, shelf, slope) and as an area-specific listing (north or south of 40°10′ N lat.) those species are managed within a complex in that area-specific listing.

(i) Nearshore rockfish includes black rockfish, *Sebastes melanops* (off Washington and California) and the

following nearshore rockfish species managed in complexes:

(A) *Nearshore Rockfish Complex North of 46°16′ N lat. (Washington):* Black and yellow rockfish, *S. chrysomelas;* blue rockfish, *S. mystinus;* brown rockfish, *S. auriculatus;* calico rockfish, *S. dalli;* China rockfish, *S. nebulosus;* copper rockfish, *S. caurinus;* deacon rockfish, *S. diaconus,* gopher rockfish, *S. carnatus;* grass rockfish, *S. rastrelliger;* kelp rockfish, *S. atrovirens;* olive rockfish, *S. serranoides;* quillback rockfish, *S. maliger;* treefish, *S. serriceps.*

(B) *Nearshore Rockfish Complex between 46°16′ N lat. and 42° N lat. (Oregon):* Black and yellow rockfish, *S. chrysomelas;* brown rockfish, *S. auriculatus;* calico rockfish, *S. dalli;* China rockfish, *S. nebulosus;* copper rockfish, *S. caurinus;* gopher rockfish, *S. carnatus;* grass rockfish, *S. rastrelliger;* kelp rockfish, *S. atrovirens;* olive rockfish, *S. serranoides;* quillback rockfish, *S. maliger;* treefish, *S. serriceps.*

(C) *Black/blue/deacon Rockfish Complex between 46°16′ N lat. and 42° N lat. (Oregon):* Black rockfish, *S. melanops,* blue rockfish, *S. mystinus,* and deacon rockfish, *S. diaconus.*

(D) *Nearshore Rockfish Complex between 42° N lat. and 40°10′ N lat. (northern California):* Black and yellow rockfish, *S. chrysomelas;* blue rockfish, *S. mystinus;* brown rockfish, *S. auriculatus;* calico rockfish, *S. dalli;* China rockfish, *S. nebulosus;* copper rockfish, *S. caurinus;* deacon rockfish, *S. diaconus,* gopher rockfish, *S. carnatus;* grass rockfish, *S. rastrelliger;* kelp rockfish, *S. atrovirens;* olive rockfish, *S. serranoides;* treefish, *S. serriceps.*

(E) *Nearshore Rockfish Complex South of 40°10′ N lat. (Southern California):* Nearshore rockfish are divided into three management categories:

(*1*) Shallow nearshore rockfish consists of black and yellow rockfish, *S. chrysomelas;* China rockfish, *S. nebulosus;* gopher rockfish, *S. carnatus;* grass rockfish, *S. rastrelliger;* kelp rockfish, *S. atrovirens.*

(*2*) Deeper nearshore rockfish consists of black rockfish, *S. melanops;* blue rockfish, *S. mystinus;* brown rockfish, *S. auriculatus;* calico rockfish, *S. dalli;* copper rockfish, *S. caurinus;* deacon rockfish, *S. diaconus;* olive rockfish, *S. serranoides;* treefish, *S. serriceps.*

(*3*) California scorpionfish, *Scorpaena guttata.*

(ii) *Shelf rockfish* includes bocaccio, *Sebastes paucispinis;* canary rockfish, *S. pinniger;* chilipepper, *S. goodei;* cowcod, *S. levis;* shortbelly rockfish, *S. jordani;* widow rockfish, *S. entomelas;* yelloweye rockfish, *S. ruberrimus;* yellowtail rockfish, *S. flavidus* and the following shelf rockfish species managed in complexes:

(A) *Shelf Rockfish Complex North of 40°10′ N lat.:* Bronzespotted rockfish, *S. gilli;* bocaccio, *S. paucispinis;* chameleon rockfish, *S. phillipsi;* chilipepper, *S. goodei;* cowcod, *S. levis;* dusky rockfish, *S. ciliatus;* dwarf-red rockfish, *S. rufianus;* flag rockfish, *S. rubrivinctus;* freckled rockfish, *S. lentiginosus;* greenblotched rockfish, *S. rosenblatti;* greenspotted rockfish, *S. chlorostictus;* greenstriped rockfish, *S. elongatus;* halfbanded rockfish, *S. semicinctus;* harlequin rockfish, *S. variegatus;* honeycomb rockfish, *S. umbrosus;* Mexican rockfish, *S. macdonaldi;* pink rockfish, *S. eos;* pinkrose rockfish, *S. simulator;* pygmy rockfish, *S. wilsoni;* redstripe rockfish, *S. proriger;* rosethorn rockfish, *S. helvomaculatus;* rosy rockfish, *S. rosaceus;* silvergray rockfish, *S. brevispinis;* speckled rockfish, *S. ovalis;* squarespot rockfish, *S. hopkinsi;* starry rockfish, *S. constellatus;* stripetail rockfish, *S. saxicola;* sunset rockfish, *S. crocotulus;* swordspine rockfish, *S. ensifer;* tiger rockfish, *S. nigrocinctus;* vermilion rockfish, *S. miniatus.*

(B) *Shelf Rockfish Complex South of 40°10′ N lat.:* Bronzespotted rockfish, *S. gilli;* chameleon rockfish, *S. phillipsi;* dusky rockfish, *S. ciliatus;* dwarf-red rockfish, *S. rufianus;* flag rockfish, *S. rubrivinctus;* freckled rockfish, *S. lentiginosus;* greenblotched rockfish, *S. rosenblatti;* greenspotted rockfish, *S. chlorostictus;* greenstriped rockfish, *S. elongatus;* halfbanded rockfish, *S. semicinctus;* harlequin rockfish, *S. variegatus;* honeycomb rockfish, *S. umbrosus;* Mexican rockfish, *S. macdonaldi;* pink rockfish, *S. eos;* pinkrose rockfish, *S. simulator;* pygmy rockfish, *S. wilsoni;* redstripe rockfish, *S. proriger;* rosethorn rockfish, *S. helvomaculatus;* rosy rockfish, *S. rosaceus;* silvergray rockfish, *S. brevispinis;* speckled rockfish, *S. ovalis;* squarespot rockfish, *S. hopkinsi;* starry rockfish, *S. constellatus;* stripetail rockfish, *S. saxicola;* sunset rockfish, *S. crocotulus;* swordspine rockfish, *S. ensifer;* tiger rockfish, *S. nigrocinctus;* vermilion rockfish, *S. miniatus;* yellowtail rockfish, *S. flavidus.*

(iii) *Slope rockfish* includes darkblotched rockfish, *Sebastes crameri;* Pacific ocean perch, *S. alutus;* splitnose rockfish, *S. diploproa;* and the following slope rockfish species managed in complexes:

(A) *Slope Rockfish Complex North of 40°10′ N lat.:* Aurora rockfish, *S. aurora;* bank rockfish, *S. rufus;* blackgill rockfish, *S. melanostomus;* blackspotted rockfish, *S. melanostictus;* redbanded rockfish, *S. babcocki;* rougheye rockfish, *S. aleutianus;* sharpchin rockfish, *S. zacentrus;* shortraker rockfish, *S. borealis;* splitnose rockfish, *S. diploproa;* yellowmouth rockfish, *S. reedi.*

(B) *Slope Rockfish Complex South of 40°10′ N lat.:* Aurora rockfish, *S. aurora;* bank rockfish, *S. rufus;* blackgill rockfish, *S. melanostomus;* blackspotted rockfish, *S. melanostictus;* Pacific ocean perch, *S. alutus;* redbanded rockfish, *S. babcocki;* rougheye rockfish, *S. aleutianus;* sharpchin rockfish, *S. zacentrus;* shortraker rockfish, *S. borealis;* yellowmouth rockfish, *S. reedi.*

* * * * *

Open access fishery * * *

(1) *Directed open access fishery* means that a fishing vessel is target fishing (defined at § 660.11) for groundfish and is only declared into a directed open access groundfish gear type or sector as defined in § 660.13(d)(4)(iv)(A). In addition to the requirements in subpart F of this part, fishing vessels participating in the directed open access fishery must be registered to a directed open access permit described at § 660.25(i) and are also subject to the non-trawl logbook requirement at § 660.13(a)(3).

(2) *Incidental open access fishery* means that a fishing vessel is retaining groundfish incidentally to a non-groundfish target species (see ''Incidental catch or incidental species'').

* * * * *

■ 5. Amend § 660.12 by adding paragraph (a)(22) to read as follows:

§ 660.12 General groundfish prohibitions.

* * * * *

(a) * * *

(22) Take and retain, possess, or land groundfish in the directed open access fishery without having a valid directed open access permit for the vessel.

* * * * *

■ 6. Amend § 660.13 by:

■ a. Revising paragraphs (a)(2)(ii) and (a)(3)(ii)(A) and (B);

■ b. Removing paragraph (a)(4); and

■ c. Revising paragraphs (d)(3), (d)(4)(iv) introductory text, and (d)(4)(iv)(A)(*21*), (*23*), and (*27*) through (*29*).

The revisions read as follows:

§ 660.13 Recordkeeping and reporting.

* * * * *

(a) * * *

(2) * * *

(ii) The limited entry fixed gear trip limit fisheries subject to the trip limits in tables 2b (North) and 2b (South) to

subpart E of this part, and primary sablefish fisheries, as defined at § 660.211; and

* * * * *

(3) * * *

(ii) * * *

(A) *Setting gear.* Logbook entries for setting gear, including vessel information, gear specifications, set date/time/location, must be completed within 2 hours of setting each piece of string or gear. The authorized representative of each vessel may record or document this information in a format outside of the electronic logbook application (*e.g.,* waterproof paper). All logbook information whether recorded inside or outside of the electronic application must be available for immediate review by at-sea authorized law enforcement personnel.

(B) *Retrieving gear.* Logbook entries for retrieving gear, including date/time recovered and catch/discard information, must be completed within 4 hours of retrieving each piece of string or gear. The authorized representative of each vessel may record or document this information in a format outside of the electronic logbook application (*e.g.,* waterproof paper). All logbook information whether recorded inside or outside of the electronic application must be available for immediate review by at-sea authorized law enforcement personnel.

* * * * *

(d) * * *

(3) *Declaration reports for open access vessels using non-trawl gear* (all types of open access gear other than non-groundfish trawl gear). The operator of any vessel that is not registered to a limited entry permit or is registered to a directed open access permit, must provide NMFS with a declaration report, as specified at paragraph (d)(4)(iv) of this section, before the vessel leaves port on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ.

(4) * * *

(iv) Declaration reports will include: The vessel name and/or identification number, gear type, and monitoring type where applicable, (as defined in paragraph (d)(4)(iv)(A) of this section). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt to confirm that a valid declaration report was received for the vessel. Retention of the confirmation code or receipt to verify that a valid declaration report was filed and the declaration requirement was met is the responsibility of the vessel owner or operator. Vessels using non-trawl gear may declare more than one gear type, with the exception of vessels participating in the Shorebased IFQ Program (*i.e.,* gear switching) and those vessels declaring to fish inside the Non-Trawl RCA with non-bottom contact stationary vertical jig gear or groundfish troll gear (*i.e.,* if one of these declarations is used, no other declaration may be made on that fishing trip). For the purpose of the directed open access permit defined at § 660.65, declaration codes for the directed open access fishery include codes 33 through 37. Vessels using trawl gear may only declare one of the trawl gear types listed in paragraph (d)(4)(iv)(A) of this section on any trip and may not declare non-trawl gear on the same trip in which trawl gear is declared.

(A) * * *

(*21*) Directed open access bottom contact hook-and-line gear for groundfish (*e.g.,* bottom longline, commercial vertical hook-and-line, rod and reel, dinglebar) (declaration code 33);

* * * * *

(*23*) Directed open access groundfish trap or pot gear (declaration code 34);

* * * * *

(*27*) Directed open access non-bottom contact hook and line gear for groundfish (*e.g.,* troll, jig gear, rod & reel gear) (outside the Non-Trawl RCA only) (declaration code 35);

(*28*) Directed open access non-bottom contact stationary vertical jig gear (allowed inside or outside the Non-Trawl RCA) (declaration code 36);

(*29*) Directed open access non-bottom contact troll gear (allowed inside or outside the Non-Trawl RCA) (declaration code 37);

* * * * *

■ 7. Amend § 660.14 by revising paragraph (d)(4)(iii) to read as follows:

* * * * *

(d) * * *

(4) * * *

(iii) *Permit exemption.* If the limited entry permit had a change in vessel registration so that it is no longer registered to the vessel (for the purposes of this section, this includes permits placed into ''unidentified'' status), the vessel may be exempted from VMS requirements providing the vessel is not used in a fishery requiring VMS off the States of Washington, Oregon, or California (0–200 nm (5.6–370.4 km) offshore) for the remainder of the fishing year.

* * * * *

■ 8. Amend § 660.25 by adding paragraph (i) to read as follows:

§ 660.25 Permits.

* * * * *

(i) *Directed open access permit*—(1) *Permit information.* This section applies to vessels that take and retain, possess, or land groundfish in the West Coast groundfish directed open access fishery, as defined in § 660.11 under ''Open Access Fishery''. No person shall take and retain, possess, or land groundfish as part of the directed open access fishery, unless the SFD has issued a permit valid for the groundfish directed open access fishery.

(i) *Validity.* The following section applies to vessel for permits under this paragraph (i):

(A) A permit issued under this paragraph (i) is valid only for the vessel for which it is registered.

(B) A permit issued under this paragraph (i) not registered for use with a particular vessel is not valid.

(C) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12103 may be issued or may hold a directed open access vessel permit.

(D) No individual may alter, erase, mutilate, or forge any permit or document issued under this section. Any such permit or document that is intentionally altered, erased, mutilated, or forged is invalid.

(ii) *Transferability.* Permits are not transferable. A permit issued under this paragraph (i) is valid only for the vessel for which it is registered. A change in ownership, documentation, or name of the registered vessel, or transfer of the ownership of the registered vessel will render the permit invalid.

(A) A vessel owner must contact SFD if the vessel for which the permit is issued is sold, ownership of the vessel is transferred, the vessel is renamed, or any other reason for which the documentation of the vessel is changed as the change may invalidate the current permit.

(B) In the case where a permit is invalidated due to a change in documentation, a new permit application is required. To submit a new application, please complete the process outlined below in paragraph (i)(2) of this section.

(iii) Civil Procedures. SFD may suspend, revoke, or modify any permit issued under this section under policies and procedures in title 15 CFR part 904, or other applicable regulations in this chapter.

(2) *Applications.* A vessel owner who wants to engage in the West Coast groundfish directed open access fishery, as defined in section § 660.11, must apply for the directed open access

permit using the application form in paragraph (i)(2)(i) of this section.

(i) *Application form.* To apply for a directed open access permit, an individual must submit a complete permit application to the SFD West Coast Region through the NOAA Fisheries Pacific Coast Groundfish and Halibut Portal—Log In web page at *https://www.webapps.nwfsc.noaa.gov/apex/ifq/f?p=120:LOGIN_DESKTOP*.

(ii) *Required documentation.* A complete application consists of:

(A) An application form that contains valid responses for all required data fields, information, and signatures.

(B) A copy of the current (not expired) U.S. Coast Guard Documentation Form or state registration form for the vessel.

(C) Payment of required fees as required at paragraph (f) of this section.

(D) Additional documentation SFD may require as it deems necessary to make a determination on the application.

(iii) *Application review, approval or denial, and appeals*—(A) *Application review.* Applications for groundfish directed open access permits issued under this paragraph (i) must be received a minimum of 15 days before intending to participate in the fishery to allow for processing time.

(B) *Approved application.* SFD shall issue a vessel permit upon receipt of a completed permit application, including all required information listed in paragraph (i)(2)(ii) of this section, submitted through the Pacific Coast Groundfish and Halibut Portal, and a cleared sanctions check.

(C) *Denied application.* If the application is denied, SFD will issue an initial administrative decision (IAD) that will explain the denial in writing. SFD may decline to act on a permit application that is incomplete, or if the vessel or vessel owner is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D.

(D) *Appeals.* In cases where the applicant disagrees with SFD's decision on a permit application, the applicant may file an appeal following the procedures described at paragraph (g) of this section.

(iv) *Issuance.* Upon review and approval of a directed open access permit application, SFD will issue a permit under this paragraph (i) electronically to the permit owner.

(A) *Duration.* A permit issued under this paragraph (i) is valid until the first date of renewal. The date of renewal will be the last day of the vessel owner's birth month, following the year after the permit is issued (*e.g.,* if the birth month is March and the permit is issued on October 3, 2024, the permit will remain valid through March 31, 2025). The permit owner is responsible for renewing their directed open access permit. Any permit not renewed by the renewal date will expire and is no longer valid.

(B) *Display.* A copy (electronic or paper) of the permit issued under this subpart must be available for inspection by an authorized officer when the vessel is operating in the groundfish open access fishery, defined at § 660.11.

■ 9. Amend § 660.40 by adding paragraph (b) to read as follows:

§ 660.40 Rebuilding Plans.

* * * * *

(b) *Quillback rockfish off California.* Quillback rockfish off California was declared overfished in 2023. The target year for rebuilding the California quillback rockfish stock to B_{MSY} is 2060. The harvest control rule to be used to rebuild the quillback rockfish stock off California is the ABC Rule (P* 0.45).

■ 10. Amend § 660.50 by revising paragraphs (f) and (g) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) *Pacific Coast treaty Indian fisheries allocations, harvest guidelines, and set-asides.* Trip limits for certain species were recommended by the Tribes and the Council and are specified in paragraph (g) of this section.

(1) *Arrowtooth flounder.* The Tribal harvest guideline is 2,041 mt per year.

(2) *Big skate.* The Tribal harvest guideline is 15 mt per year.

(3) *Black rockfish off Washington.* (i) Harvest guidelines for commercial harvests of black rockfish by members of the Pacific Coast Indian Tribes using hook-and-line gear will be established biennially for two subsequent 1-year periods for the areas between the U.S.-Canadian border and Cape Alava (48°09.50′ N lat.) and between Destruction Island (47°40′ N lat.) and Leadbetter Point (46°38.17′ N lat.), in accordance with the procedures for implementing harvest specifications and management measures. Pacific Coast treaty Indians fishing for black rockfish in these areas under these harvest guidelines are subject to the provisions in this section, and not to the restrictions in subparts C through G of this part.

(ii) For the commercial harvest of black rockfish off Washington State, a treaty Indian Tribes' harvest guideline is set at 30,000 lb (13,608 kg) for the area north of Cape Alava, WA (48°09.50′ N lat.) and 10,000 lb (4,536 kg) for the area between Destruction Island, WA (47°40′ N lat.) and Leadbetter Point, WA (46°38.17′ N lat.). This harvest guideline applies and is available to the Pacific Coast treaty Indian Tribes. There are no Tribal harvest restrictions for black rockfish in the area between Cape Alava and Destruction Island.

(4) *Canary rockfish.* The Tribal harvest guideline is 50 mt per year.

(5) *Darkblotched rockfish.* The Tribal harvest guideline is 5 mt per year.

(6) *Dover sole.* The Tribal harvest guideline is 1,497 mt per year.

(7) *English sole.* The Tribal harvest guideline is 200 mt per year.

(8) *Lingcod.* The Tribal harvest guideline is 250 mt per year.

(9) *Longnose skate.* The Tribal harvest guideline is 220 mt per year.

(10) *Minor nearshore rockfish.* The Tribal harvest guideline is 1.5 mt per year.

(11) *Minor shelf rockfish.* The Tribal harvest guideline is 30 mt per year.

(12) *Minor slope rockfish.* The Tribal harvest guideline is 36 mt per year.

(13) *Other flatfish.* The Tribal harvest guideline is 60 mt per year.

(14) *Pacific cod.* The Tribal harvest guideline is 500 mt per year.

(15) *Pacific ocean perch.* The Tribal harvest guideline is 130 mt per year.

(16) *Pacific spiny dogfish.* The Tribal harvest guideline is 275 mt per year.

(17) *Pacific whiting.* The Tribal whiting allocation will be announced annually in conjunction with the Total Allowable Catch (TAC) setting process of the Whiting Act.

(18) *Petrale sole.* The harvest guideline is 290 mt per year.

(19) *Sablefish.* (i) The sablefish allocation to Pacific coast treaty Indian Tribes is 10 percent of the sablefish ACL for the area north of 36°N lat. This allocation represents the total amount available to the treaty Indian fisheries before deductions for discard mortality.

(ii) The Tribal allocation is 2,869 mt in 2025 and 2,724 mt in 2026. This allocation is, for each year, 10 percent of the Monterey through Vancouver area (North of 36°N lat.) ACL, including estimated discard mortality.

(20) *Starry flounder.* The Tribal harvest guideline is 2 mt per year.

(21) *Thornyheads.* The Tribal harvest guideline for shortspine thornyhead is 50 mt per year and the Tribal harvest guideline for longspine thornyhead is 30 mt per year.

(22) *Washington cabezon/kelp greenling.* The Tribal harvest guideline is 2 mt per year.

(23) *Widow rockfish.* Widow rockfish taken in the directed Tribal midwater trawl fisheries are subject to a catch limit of 200 mt for the entire fleet, per year.

(24) *Yelloweye rockfish.* The Tribal harvest guideline is 8 mt per year.

(25) *Yellowtail rockfish.* Yellowtail rockfish taken in the directed Tribal mid-water trawl fisheries are subject to a catch limit of 1,000 mt for the entire fleet, per year.

(g) *Pacific coast treaty Indian fisheries management measures.* Trip limits for certain species were recommended by the Tribes and the Council and are specified here.

(1) *Rockfish.* The Tribes will require full retention of all overfished rockfish species and all other marketable rockfish species during treaty fisheries.

(2) *Yelloweye rockfish.* Subject to a 200-lb (90-kg) trip limit.

(3) *Pacific whiting.* Tribal whiting processed at-sea by non-Tribal vessels, must be transferred within the Tribal U&A from a member of a Pacific Coast treaty Indian Tribe fishing under this section.

(4) *Groundfish without a Tribal allocation.* Makah Tribal members may use midwater trawl gear to take and retain groundfish for which there is no Tribal allocation and will be subject to the trip landing and frequency and size limits applicable to the limited entry fishery.

(5) *EFH.* Measures implemented to minimize adverse impacts to groundfish EFH, as described in § 660.12, do not apply to Tribal fisheries in their U&A fishing areas described at § 660.4, subpart A.

(6) *Small footrope trawl gear.* Makah Tribal members fishing in the bottom trawl fishery may use only small footrope (less than or equal to 8 inches (20.3 cm)) bottom trawl gear.

* * * * *

■ 11. Amend § 660.55 by revising table 1 to paragraph (c)(1) and paragraph (i)(2) to read as follows:

§ 660.55 Allocations.

* * * * *

(c) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (c)(1)—ALLOCATION AMOUNTS AND PERCENTAGES FOR LIMITED ENTRY TRAWL AND NON-TRAWL SECTORS SPECIFIED FOR FMP GROUNDFISH STOCKS AND STOCK COMPLEXES

Stock or complex	All non-treaty LE trawl sectors (%)	All non-treaty non-trawl sectors (%)
Arrowtooth Flounder	95	5
Chilipepper Rockfish S of 40°10′ N lat	75	25
Darkblotched Rockfish	95	5
Dover Sole	95	5
English Sole	95	5
Lingcod N of 40°10′ N lat	45	55
Longspine Thornyhead N of 34°27′ N lat	95	5
Pacific Cod	95	5
Pacific Ocean Perch	95	5
Sablefish S of 36° N lat	42	58
Splitnose Rockfish S. of 40°10′ N lat	95	5
Starry Flounder	50	50
Yellowtail Rockfish N of 40°10′ N lat	88	12
Minor Slope Rockfish North of 40°10′ N lat	81	19
Other Flatfish	90	10

* * * * *

(i) * * *

(2) The fishery harvest guideline for Pacific whiting is allocated among three sectors, as follows: 34 percent for the C/P Co-op Program; 24 percent for the MS Co-op Program; and 42 percent for the Shorebased IFQ Program. No more than 5 percent of the Shorebased IFQ Program allocation may be taken and retained south of 42° N lat. before the start of the primary Pacific whiting season north of 42° N lat. Specific sector allocations for a given calendar year are found in tables 1a through c and 2a through c of this subpart. Set-asides for other species for the at-sea whiting fishery for a given calendar year are established through the biennial specifications process.

* * * * *

■ 12. Amend § 660.60 by revising paragraphs (b)(1), (c) introductory text, (c)(1)(i), (g), (h)(1), (h)(7)(i)(D), and (h)(7)(ii)(A)(*2*) to read as follows:

§ 660.60 Specifications and management measures.

* * * * *

(b) * * *

(1) Except for Pacific whiting, every biennium, NMFS will implement OFLs, ABCs, and ACLs, if applicable, for each species or species group based on the harvest controls used in the previous biennium (referred to as default harvest control rules) applied to the best available scientific information. The default harvest control rules for each species or species group are listed in the biennial SAFE document. NMFS may implement OFLs, ABCs, and ACLs, if applicable, that vary from the default harvest control rules based on a Council recommendation.

* * * * *

(c) *Routine management measures.* Catch restrictions that are likely to be adjusted on a biennial, or more frequent, basis may be imposed and announced by a single notification in the **Federal Register**, if good cause exists under the Administrative Procedure Act (APA) to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. Routine management measures that may be revised during the fishing year, via this process, are implemented in paragraph (h) of this section, and in subparts C through G of this part, including tables 1a through 1c, and 2a through 2c to subpart C of this part, tables 1a and 1b (North) and tables 1a and 1b (South) of subpart D of this part, tables 2a and 2b (North) and tables 2a and 2b (South) of subpart E of this part, and tables 3a and 3b (North) and tables 3a and 3b (South) of subpart F of this part. Most trip, bag, and size limits, and some Groundfish Conservation Area closures in the groundfish fishery have been designated ''routine,'' which means they may be changed rapidly after a single Council meeting. Council meetings are held in the months of March, April, June, September, and November. Inseason changes to routine management measures are announced in the **Federal Register** pursuant to the

requirements of the APA. Changes to trip limits are effective at the times stated in the **Federal Register**. Once a trip limit change is effective, it is illegal to take and retain, possess, or land more fish than allowed under the new trip limit. This means that, unless otherwise announced in the **Federal Register**, offloading must begin before the time a fishery closes or a more restrictive trip limit takes effect. The following catch restrictions have been designated as routine:

(1) * * *

(i) *Trip landing and frequency limits, size limits, all gear.* Trip landing and frequency limits have been designated as routine for the following species or species groups: Widow rockfish, canary rockfish, yellowtail rockfish, Pacific ocean perch, yelloweye rockfish, black rockfish, blue/deacon rockfish, splitnose rockfish, blackgill rockfish in the area south of 40°10′ N lat., chilipepper, bocaccio, cowcod, Minor Nearshore Rockfish or shallow and deeper Minor Nearshore Rockfish, shelf or Minor Shelf Rockfish, and Minor Slope Rockfish; Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, big skate, and the Other Flatfish complex, which is composed of those species plus any other flatfish species listed at § 660.11; Pacific whiting; lingcod; Pacific cod; Pacific spiny dogfish; longnose skate; cabezon in Oregon and California; and ''Other Fish'' as defined at § 660.11. In addition to the species and species groups listed above, sub-limits or aggregate limits may be specified, specific to the Shorebased IFQ Program, for the following species: big skate, California skate, California scorpionfish, leopard shark, soupfin shark, finescale codling, Pacific rattail (grenadier), ratfish, kelp greenling, shortbelly rockfish, and cabezon in Washington. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS.

* * * * *

(g) *Applicability.* These specifications account for fish caught in state ocean waters (0–3 nm offshore) though that fishing activity is governed by the States of Washington, Oregon, and California, respectively. Catch of a stock in State waters is taken off the top of the harvest specifications for the stock in the EEZ (3–200 nm (5.6–370.4 km) offshore).

(h) * * *

(1) *Commercial trip limits and recreational bag and boat limits.* Commercial trip limits and recreational bag and boat limits defined in tables 1a through 2d of this subpart, and those specified in subparts D through G of this part, including tables 1b (North) and 1b (South) of subpart D of this part, tables 2b (North) and 2b (South) of subpart E of this part, and tables 3b (North) and 3b (South) of subpart F of this part must not be exceeded.

* * * * *

(7) * * *

(i) * * *

(D) *Rockfish complexes.* Several rockfish species are designated with species-specific limits on one side of the 40°10′ N lat. management line and are included as part of a rockfish complex on the other side of the line. A vessel that takes and retains fish from a rockfish complex (nearshore, shelf, or slope) on both sides of a management line during a single cumulative limit period is subject to the more restrictive cumulative limit for that rockfish complex during that period.

(*1*) If a vessel takes and retains species from the slope rockfish complex north of 40°10′ N lat., that vessel is also permitted to take and retain, possess or land splitnose rockfish up to its cumulative limit south of 40°10′ N lat., even if splitnose rockfish were a part of the landings from slope rockfish complex taken and retained north of 40°10′ N lat.

(*2*) If a vessel takes and retains species from the slope rockfish complex south of 40°10′ N lat., that vessel is also permitted to take and retain, possess or land Pacific ocean perch up to its cumulative limit north of 40°10′ N lat., even if Pacific ocean perch were a part of the landings from slope rockfish complex taken and retained south of 40°10′ N lat.

(ii) * * *

(A) * * *

(*2*) Vessels with a valid limited entry permit endorsed for bottom longline and/or pot gear fishing inside the Non-Trawl RCA with stationary vertical jig gear or groundfish troll gear as defined at § 660.320(b)(6). Vessels fishing with one of these two approved hook-and-line gear configurations may fish up to the limited entry fixed gear trip limits in table 2b (North) and table 2b (South) of subpart E, either inside or outside the Non-Trawl RCA. This provision only applies on fishing trips where the vessel made the appropriate declaration (specified at § 660.13(d)(4)(iv)(A)).

* * * * *

■ 13. Revise § 660.65 to read as follows:

§ 660.65 Groundfish harvest specifications.

Harvest specifications include OFLs, ABCs, and the designation of OYs and ACLs. Management measures necessary to keep catch within the ACL include ACTs, HGs, or quotas for species that need individual management, the allocation of fishery HGs between the trawl and non-trawl segments of the fishery, and the allocation of commercial HGs between the open access and limited entry segments of the fishery. These specifications account for fish caught in state ocean waters (0–3 nm (0–5.6 km) offshore), though that fishing activity is governed by the States of Washington, Oregon, and California respectively. Catch of a stock in State waters is taken off the top of the harvest specifications for the stock in the EEZ (3–200 nm (5.6–370.4 km) offshore). Harvest specifications are provided in tables 1a through 2d of this subpart.

§ 660.70 [Amended]

■ 14. Amend § 660.70 by removing paragraph (u) and redesignating paragraph (v) as paragraph (u).

■ 15. Amend § 660.72 by revising paragraphs (a)(95) through (100) to read as follows:

§ 660.72 Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours.

* * * * *

(a) * * *

(95) 39°32.47′ N lat., 123°52.25′ W long.;

(96) 39°21.86′ N lat., 123°54.13′ W long.;

(97) 39°8.35′ N lat., 123°49.67′ W long.;

(98) 38°57.50′ N lat., 123°49.42′ W long.;

(99) 38°51.20′ N lat., 123°46.09′ W long.;

(100) 38°29.47′ N lat., 123°20.19′ W long.;

* * * * *

■ 16. Revise tables 1a through 1c to part 660, subpart C to read as follows:

TABLE 1a TO PART 660, SUBPART C—2025, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HG (WEIGHTS IN METRIC TONS). CAPITALIZED STOCKS ARE REBUILDING

Species/stock	Area	OFL	ABC	ACL [a]	Fishery HG [b]
QUILLBACK ROCKFISH OFF CALIFORNIA.	California	1.52	1.3	1.3	1.2
YELLOWEYE ROCKFISH [c]	Coastwide	105.8	87.2	55.8	41
Arrowtooth Flounder	Coastwide	16,460	11,193	11,193	9,098
Big Skate	Coastwide	1,456	1,224	1,224	1,164.6
Black Rockfish	Washington (N of 46°16′ N lat.)	262	244.6	244.6	226
Black Rockfish	California (S of 42° N lat.)	250	234	224	222.3
Bocaccio	S of 40°10′ N lat	1,849	1,681	1,681	1,673.2
Cabezon	California (S of 42° N lat.)	176	162	162	161.2
California Scorpionfish	S of 34°27′ N lat	273	244	244	242
Canary Rockfish	Coastwide	647	605	572	508.4
Chilipepper	S of 40°10′ N lat	3,128	2,815	2,815	2,788
Cowcod	S of 40°10′ N lat	111	77	77	66.5
Cowcod	(Conception)	93	66	66	.....
Cowcod	(Monterey)	18	11	11	.....
Darkblotched Rockfish	Coastwide	830	754	754	729.8
Dover Sole	Coastwide	52,214	47,424	47,424	45,840
English Sole	Coastwide	11,175	8,884	8,884	8,669.4
Lingcod	N of 40°10′ N lat	4,237	3,631	3,631	3,349.9
Lingcod	S of 40°10′ N lat	897	768	748	736.4
Longnose Skate	Coastwide	1,922	1,616	1,616	1,365.4
Longspine Thornyhead	Coastwide	4,284	2,698	2,698	.....
Longspine Thornyhead	N of 34°27′ N lat	.....	.....	2,050	2,000.7
Longspine Thornyhead	S of 34°27′ N lat	.....	.....	648	646
Pacific Cod	Coastwide	3,200	1,926	1,600	1,098.6
Pacific Ocean Perch	N of 40°10′ N lat.	4,029	3,328	3,328	3,182.5
Pacific Spiny Dogfish	Coastwide	1,857	1,361	1,361	1,037.6
Pacific Whiting	Coastwide	[d]	[d]	[d]	[d]
Petrale Sole	Coastwide	2,518	2,354	2,354	2,035.5
Sablefish	Coastwide	39,085	36,545	36,545	.....
Sablefish	N of 36° N lat	.....	.....	28,688	See Table 1c
Sablefish	S of 36° N lat	.....	.....	7,857	7,829.80
Shortspine Thornyhead [e]	Coastwide	940	821	815	743.3
Splitnose	S of 40°10′ N lat	1,724	1,508	1,508	1,493.9
Starry Flounder	Coastwide	652	392	392	375.3
Widow Rockfish	Coastwide	12,254	11,237	11,237	11,018.7
Yellowtail Rockfish	N of 40°10′ N lat	6,866	6,241	6,241	5,216.1
Species/Stock Complexes					
Blue/Deacon/Black Rockfish	Oregon	464	423	423	421.7
Cabezon/Kelp Greenling	Washington	19	15	15	12.2
Cabezon/Kelp Greenling	Oregon	196	177	177	176.1
Nearshore Rockfish North	N of 40°10′ N lat	106	88	88	84.8
Nearshore Rockfish South	S of 40°10′ N lat	1,137	934	932	929.3
Other Fish	Coastwide	286	223	223	213.2
Other Flatfish	Coastwide	10,895	7,974	7,974	7,803
Shelf Rockfish North	N of 40°10′ N lat	1,747	1,392	1,392	1,325.7
Shelf Rockfish South	S of 40°10′ N lat	1,837	1,465	1,464	1,437.9
Slope Rockfish North	N of 40°10′ N lat	1,779	1,488	1,488	1,430
Slope Rockfish South	S of 40°10′ N lat	866	693	693	674

[a] Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

[b] Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian Tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT. These deductions, as well as any HG sharing agreements between states and/or sectors, are published in the SAFE.

[c] Yelloweye rockfish has a non-trawl ACT of 29.6 mt and a non-nearshore ACT of 6.2 mt. The recreational ACTs are: 7.6 mt (Washington), 6.9 mt (Oregon), and 8.9 mt (California).

[d] Pacific whiting are assessed annually. The final specifications will be determined consistent with the U.S.-Canada Pacific Whiting Agreement and will be announced in 2025.

[e] Shortspine thornyhead has a commercial ACT of 67 mt for north of 34°27′ N lat.

[f] Copper rockfish has a recreational ACT of 15.8 for south of 34°27′ N lat.

TABLE 1b TO PART 660, SUBPART C—2025, ALLOCATIONS BY SPECIES OR SPECIES GROUP

[Weight in metric tons]

Species/stock & complexes	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	mt	%	mt
YELLOWEYE ROCKFISH ..	Coastwide	41	8	3.3	92	38.5
Arrowtooth flounder	Coastwide	9,098	95	8,643.1	5	454.9

TABLE 1b TO PART 660, SUBPART C—2025, ALLOCATIONS BY SPECIES OR SPECIES GROUP—Continued

[Weight in metric tons]

Species/stock & complexes	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	mt	%	mt
Big skate	Coastwide	1,164.6	95	1,106.4	5	58.2
Bocaccio	S of 40°10′ N lat	1,673.2	39	652.5	61	1,020.6
Canary rockfish	Coastwide	508.4	72.3	367.6	27.7	140.8
Chilipepper rockfish	S of 40°10′ N lat	2,788	75	2,091	25	697
Cowcod	S of 40°10′ N lat	66.5	36	23.90	64	42.6
Darkblotched rockfish	Coastwide	729.8	95	693.3	5	36.5
Dover sole	Coastwide	45,840	95	43,459.8	5	2,290.2
English sole	Coastwide	8,669.4	95	8,235.9	5	433.5
Lingcod	N of 40°10′ N lat	3,349.9	45	1,507.5	55	1,842.4
Lingcod	S of 40°10′ N lat	736.4	40	294.6	60	441.8
Longnose skate	Coastwide	1,365.4	90	1,228.9	10	136.5
Longspine thornyhead	N of 34°27′ N lat	2,000.7	95	1,900.7	5	100
Pacific cod	Coastwide	1,098.6	95	1,043.7	5	54.9
Pacific Ocean perch	N of 40°10′ N lat	3,182.5	95	3,023.4	5	159.1
Pacific whiting	Coastwide		100		0	0
Petrale sole	Coastwide	2,035.5		2,005.5		30
Sablefish	N of 36° N lat	25,729.3	See Table 1c			
Sablefish	S of 36° N lat	7,829.8	42	3,288.5	58	4,541.3
Shortspine thornyhead	Coastwide	743.3	64	475.71	36	267.59
Splitnose rockfish	S of 40°10′ N lat	1,493.9	95	1,419.2	5	74.7
Starry flounder	Coastwide	375.3	50	187.7	50	187.7
Widow rockfish	Coastwide	11,018.7		10,718.7		300
Yellowtail rockfish	N of 40°10′ N lat	5,216.1	88	4,590.2	12	625.9
Shelf rockfish north	N of 40°10′ N lat	1,325.7	60.2	798.1	39.8	527.6
Shelf rockfish south	S of 40°10′ N lat	1,437.9	12.2	175.4	87.8	1,262.5
Slope rockfish north	N of 40°10′ N lat	1,430	81	1,158.3	19	271.7
Slope rockfish south	S of 40°10′ N lat	674	63	424.6	37	249.4
Other flatfish	Coastwide	7,803	90	7,022.7	10	780.3

TABLE 1c TO PART 660, SUBPART C—SABLEFISH NORTH OF 36° N LAT. ALLOCATIONS, 2025

[Weight in metric tons]

	Percent	Allocation (mt)
Non-Tribal Commercial HG[a]		25,729.3
LE Share	90.6	23,310.7
LE Trawl	58	13,520.2
LEFG	42	9,791.9
Primary	85	8,323.1
Trip limit	15	1,468.8
OA Share	9.4	2,418.6

[a] Off-the-top deductions from the ACL that result in the HG are in the SAFE.

■ 17. Revise tables 2a through 2c to part 660, subpart C, to read as follows:

TABLE 2a TO PART 660, SUBPART C—2026, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT, AND FISHERY HG (WEIGHTS IN METRIC TONS)

[Capitalized Stocks Are Rebuilding]

Species/stock	Area	OFL	ABC	ACL[a]	Fishery HG[b]
QUILLBACK ROCKFISH OFF CALIFORNIA.	California	1.77	1.5	1.5	1.4
YELLOWEYE ROCKFISH[c]	Coastwide	108.3	88.5	56.6	41.8
Arrowtooth Flounder	Coastwide	13,833	9,227	9,227	7,132
Big Skate	Coastwide	1,426	1,188	1,188	1,128.6
Black Rockfish	Washington (N of 46°16′ N lat.)	259	241	241	226.6
Black Rockfish	California (S of 42° N lat.)	265	247	236	234.4
Bocaccio	S of 40°10′ N lat	1,846	1,668	1,668	1,660.2
Cabezon	California (S of 42° N lat.)	170	155	155	154.5
California Scorpionfish	S of 34°27′ N lat	267	238	238	236

TABLE 2a TO PART 660, SUBPART C—2026, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT, AND FISHERY HG (WEIGHTS IN METRIC TONS)—Continued

[Capitalized Stocks Are Rebuilding]

Species/stock	Area	OFL	ABC	ACL [a]	Fishery HG [b]
Canary Rockfish	Coastwide	655	609	573	509.6
Chilipepper Rockfish	S of 40°10′ N lat	2,949	2,643	2,643	2,615.2
Cowcod	S of 40°10′ N lat	111	75	75	65.2
Cowcod	(Conception)	92	64	64	.....
Cowcod	(Monterey)	19	11	11	.....
Darkblotched Rockfish	Coastwide	810	732	732	707.8
Dover Sole	Coastwide	46,049	42,457	42,457	40,873
English Sole	Coastwide	11,192	8,819	8,819	8,604.4
Lingcod	N of 40°10′ N lat	4,163	3,534	3,534	3,252.9
Lingcod	S of 40°10′ N lat	937	795	773	761.5
Longnose Skate	Coastwide	1,895	1,579	1,579	1,328.4
Longspine Thornyhead	Coastwide	4,166	2,575	2,575	.....
Longspine Thornyhead	N of 34°27′ N lat	.....	.....	1,957	1,907.3
Longspine Thornyhead	S of 34°27′ N lat	.....	.....	618	616.5
Pacific Cod	Coastwide	3,200	1,926	1,600	1,098.6
Pacific Ocean Perch	N of 40°10′ N lat	3,937	3,220	3,220	3,074.5
Pacific Spiny Dogfish	Coastwide	1,833	1,318	1,318	994.2
Pacific Whiting	Coastwide	[d]	[d]	[d]	[d]
Petrale Sole	Coastwide	2,424	2,255	2,238	1,919.5
Sablefish	Coastwide	37,310	34,699	34,699	.....
Sablefish	N of 36° N lat	.....	.....	27,238	See Table 2c
Sablefish	S of 36° N lat	.....	.....	7,460	7,432.9
Shortspine Thornyhead [e]	Coastwide	961	831	825	752.7
Splitnose Rockfish	S of 40°10′ N lat	1,686	1,469	1,469	1,454.9
Starry Flounder	Coastwide	652	392	392	375.3
Widow Rockfish	Coastwide	11,382	10,392	10,392	10,173.7
Yellowtail Rockfish	N of 40°10′ N lat	6,662	6,023	6,023	4,997.5
Species/stock Complexes					
Blue/Deacon/Black Rockfish	Oregon	472	428	428	426.5
Cabezon/Kelp Greenling	Washington	19	15	15	12.1
Cabezon/Kelp Greenling	Oregon	194	174	174	173.6
Nearshore Rockfish North	N of 42° N lat	105	86	86	83
Nearshore Rockfish South	S of 40°10′ N lat	1,143	933	931	928.1
Other Fish	Coastwide	286	223	223	212.7
Other Flatfish	Coastwide	9,988	7,144	7,144	6,972.6
Shelf Rockfish North	N of 40°10′ N lat	1,734	1,379	1,378	1,312.3
Shelf Rockfish South	S of 40°10′ N lat	1,837	1,463	1,463	1,435.7
Slope Rockfish North	N of 40°10′ N lat	1,754	1,460	1,460	1,402.2
Slope Rockfish South	S of 40°10′ N lat	865	690	690	671

[a] Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

[b] Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian Tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT. These deductions, as well as any HG sharing agreements between states and/or sectors, are published in the SAFE.

[c] Yelloweye rockfish has a non-trawl ACT of 30.2 mt and a non-nearshore ACT of 6.3 mt. The recreational ACTs are: 7.7 mt (Washington), 7.0 mt (Oregon), and 9.1 mt (California).

[d] Pacific whiting are assessed annually. The final specifications will be determined consistent with the U.S.-Canada Pacific Whiting Agreement and will be announced in 2026.

[e] Shortspine thornyhead has a commercial ACT of 55 mt for north of 34°27′ N lat.

[f] Copper rockfish has a recreational ACT of 18.0 for south of 34°27′ N lat.

TABLE 2b TO PART 660, SUBPART C—2026, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP

Species/stock & complexes	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	mt	%	mt
YELLOWEYE ROCKFISH	Coastwide	41.8	8	3.3	92	38.5
Arrowtooth flounder	Coastwide	7,132	95	6,775.4	5	356.6
Big skate	Coastwide	1,128.6	95	1,072.2	5	56.4
Bocaccio	S of 40°10′ N lat	1,660.2	39	647.5	61	1,012.7
Canary rockfish	Coastwide	509.6	72.3	368.4	27.7	141.2
Chilipepper rockfish	S of 40°10′ N lat	2,615.2	75	1,961.4	25	653.8
Cowcod	S of 40°10′ N lat	65.2	36	23.5	64	41.7
Darkblotched rockfish	Coastwide	707.8	95	672.4	5	35.4
Dover sole	Coastwide	40,873	95	38,829.4	5	2,043.7
English sole	Coastwide	8,604.4	95	8,174.2	5	430.2
Lingcod	N of 40°10′ N lat	3,252.9	45	1,463.8	55	1,789.1
Lingcod	S of 40°10′ N lat	761.5	40	304.6	60	456.9

TABLE 2b TO PART 660, SUBPART C—2026, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP—Continued

Species/stock & complexes	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	mt	%	mt
Longnose skate	Coastwide	1,328.4	90	1,195.6	10	132.8
Longspine thornyhead	N of 34°27′ N lat	1,907.3	95	1,811.9	5	95.4
Pacific cod	Coastwide	1,098.6	95	1,043.7	5	54.9
Pacific Ocean perch	N of 40°10′ N lat	3,074.5	95	2,920.8	5	153.7
Pacific whiting	Coastwide	.....	100	0.0	.....	0
Petrale sole	Coastwide	1,919.5	.....	1,889.5	.....	30
Sablefish	N of 36° N lat	24,425.1	See Table 2c			
Sablefish	S of 36° N lat	7,432.9	42	3,121.8	58	4,311.1
Shortspine thornyhead	Coastwide	752.7	71	534.4	29	218.3
Splitnose rockfish	S of 40°10′ N lat	1,454.9	95	1,382.2	5	72.7
Starry flounder	Coastwide	375.3	50	187.7	50	187.7
Widow rockfish	Coastwide	10,173.7	.....	9,873.7	.....	300
Yellowtail rockfish	N of 40°10′ N lat	4,997.5	88	4,397.8	12	599.7
Shelf rockfish north	N of 40°10′ N lat	1,312.3	60.2	790	39.8	522.3
Shelf rockfish south	S of 40°10′ N lat	1,435.7	12.2	172.2	87.8	1,260.5
Slope rockfish north	N of 40°10′ N lat	1,402.2	81	1,135.8	19	266.4
Slope rockfish south	S of 40°10′ N lat	671	63	422.7	37	248.3
Other flatfish	Coastwide	6,972.6	90	6,275.3	10	697.3

TABLE 2c TO PART 660, SUBPART C—SABLEFISH NORTH OF 36° N LAT. ALLOCATIONS, 2026 AND BEYOND

[Weights in Metric Tons]

	Percent	Allocation (mt)
Non-Tribal Commercial HG [a]	.....	24,425.1
LE Share	90.6	22,129.1
LE Trawl	58	12,834.9
LEFG	42	9,294
Primary	85	7,899.9
Trip limit	15	1,394.1
OA Share	9.4	2,296

[a] Off-the-top deductions from the ACL that result in the HG are in the SAFE.

■ 18. Amend § 660.111 by revising the definition of ''Block area closures or BACs'' to read as follows:

§ 660.111 Trawl fishery—definitions.

* * * * *

Block area closures or *BACs* are a type of groundfish conservation area, defined at § 660.11, bounded on the north and south by commonly used geographic coordinates, defined at § 660.11, and on the east and west by the EEZ, and boundary lines approximating depth contours, defined with latitude and longitude coordinates at §§ 660.71 through 660.74 (10 fm (18 m) through 250 fm (457 m)), and § 660.76 (700 fm (1,280 m)). BACs may be implemented or modified as routine management measures, per regulations at § 660.60(c). BACs may be implemented in the EEZ seaward of Washington, Oregon, and California for vessels using limited entry bottom trawl and/or midwater trawl gear. BACs may be implemented within Tribal Usual and Accustomed fishing areas but may only apply to non-Tribal vessels. BACs may close areas to specific trawl gear types (*e.g.,* closed for midwater trawl, bottom trawl, or bottom trawl unless using selective flatfish trawl) and/or specific programs within the trawl fishery (*e.g.,* Pacific whiting fishery or MS Co-op Program). BACs may vary in their geographic boundaries and duration. Their geographic boundaries, applicable gear type(s) and/or specific trawl fishery program, and effective dates will be announced in the **Federal Register**. BACs may have a specific termination date as described in the **Federal Register** or may be in effect until modified. BACs that are in effect until modified by Council recommendation and subsequent NMFS action are set out in tables 1a (North) and 1a (South) of this subpart.

* * * * *

■ 19. Amend § 660.130 by:

■ a. Revising paragraphs (a), (c) introductory paragraph, and (c)(4);

■ c. Removing paragraph (e)(2);

■ d. Redesignating paragraphs (e)(3) through (8) as (e)(2) through (7); and

■ e. Revising newly redesignated paragraph (e)(3) introductory text.

The revisions read as follows:

§ 660.130 Trawl fishery—management measures.

(a) *General.* This section applies to the limited entry trawl fishery. Most species taken in the limited entry trawl fishery will be managed with quotas (see § 660.140), allocations or set-asides (see § 660.150 or § 660.160), or cumulative trip limits (see trip limits in tables 1b (North) and 1b (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see Pacific whiting at § 660.131(b)), gear restrictions (see paragraphs (b) and (c) of this section) and closed areas (see paragraphs (c) and (e) of this section and §§ 660.70 through 660.79). The limited entry trawl fishery has gear requirements and harvest limits that differ by the type of groundfish trawl gear on board and the area fished. Groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (e)(1) of this section and § 660.70). The trip limits in tables 1b (North) and 1b (South) of this subpart apply to vessels participating in

the limited entry trawl fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally managed groundfish.

* * * * *

(c) *Restrictions by limited entry trawl gear type.* Management measures may vary depending on the type of trawl gear (*i.e.,* large footrope, small footrope, selective flatfish, or midwater trawl gear) used and/or on board a vessel during a fishing trip, cumulative limit period, and the area fished. Trawl nets may be used on and off the seabed. For some species or species groups, tables 1b (North) and 1b (South) of this subpart provide trip limits that are specific to different types of trawl gear: Large footrope, small footrope (including selective flatfish), selective flatfish, midwater, and multiple types. If tables 1a (North), 1b (North), 1a (South), and 1b (South) of this subpart provide gear specific limits or closed areas for a particular species or species group, prohibitions at §§ 660.12 and 660.112(a)(5) apply. Additional conservation areas applicable to vessels registered to limited entry permits with trawl endorsements are listed at paragraph (e) of this section.

* * * * *

(4) *More than one type of trawl gear on board.* The trip limits in table 1b (North) or 1b (South) of this subpart must not be exceeded. A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may have more than one type of limited entry trawl gear on board (midwater, large or small footrope, including selective flatfish trawl), either simultaneously or successively, during a cumulative limit period except between 42° N lat. and 40°10′ N lat. as described in this section. If a vessel fishes both north and south of 40°10′ N lat. with any type of small or large footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive cumulative limit associated with the gear on board would apply for that trip and all catch would be counted toward that cumulative limit (see crossover provisions at § 660.60(h)(7)). When operating in an applicable GCA, all trawl gear must be stowed, consistent with prohibitions at § 660.112(a)(5)(i), unless authorized in this section.

* * * * *

(e) * * *

(3) *Trawl RCA.* This GCA is off the coast of Washington, between the US/Canada border and 46°16′ N lat. Boundaries for the trawl RCA applicable to groundfish trawl vessels throughout the year are provided in the header to table 1a (North) of this subpart and may be modified by NMFS inseason pursuant to § 660.60(c). Prohibitions at § 660.112(a)(5) do not apply under the following conditions and when the vessel has a valid declaration for the allowed fishing:

* * * * *

■ 20. Amend § 660.131 by revising paragraphs (b)(3) introductory text and (g)(2) to read as follows:

§ 660.131 Pacific whiting fishery management measures.

* * * * *

(b) * * *

(3) *Pacific whiting trip limits.* For Shorebased IFQ Program vessels targeting Pacific whiting outside the primary season, the ''per trip'' limit for whiting is announced in table 1b of this subpart. The per-trip limit is a routine management measure under § 660.60(c). This trip limit includes any whiting caught shoreward of 100 fm (183 m) in the Eureka management area. The per-trip limit for other groundfish species are announced in tables 1b (North) and 1b (South) of this subpart and apply as follows:

* * * * *

(g) * * *

(2) The amount of whole whiting on board does not exceed the trip limit (if any) allowed under § 660.60(c) or table 1b (North) or 1b (South) in subpart D.

* * * * *

■ 21. Amend § 660.140 by revising table 1 to paragraph (d)(1)(ii)(D) and paragraph (g) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(D) * * *

TABLE 1 TO PARAGRAPH (d)(1)(ii)(D)—SHOREBASED TRAWL ALLOCATIONS FOR 2025 AND 2026

IFQ species	Area	2025 Shorebased trawl allocation (mt)	2026 Shorebased trawl allocation (mt)
YELLOWEYE ROCKFISH	Coastwide	3.3	3.4
Arrowtooth flounder	Coastwide	8,573	6,705
Bocaccio	South of 40°10′ N lat	653	648
Canary rockfish	Coastwide	348	347
Chilipepper rockfish	South of 40°10′ N lat	2,091	1,961
Cowcod	South of 40°10′ N lat	24	23
Darkblotched rockfish	Coastwide	593	572
Dover sole	Coastwide	43,538	38,819
English sole	Coastwide	8,236	8,174
Lingcod	North of 40°10′ N lat	1,503	1,449
Lingcod	South of 40°10′ N lat	295	305
Longspine thornyhead	North of 34°27′ N lat	1,901	1,812
Pacific cod	Coastwide	1,044	1,044
Pacific ocean perch	North of 40°10′ N lat	2,723	2,621
Pacific whiting[a]	Coastwide	TBD	TBD
Petrale sole	Coastwide	2,001	1,885
Sablefish	North of 36° N lat	13,091	13,091
Sablefish	South of 36° N lat	3,289	3,289
Shortspine thornyhead	Coastwide	406	464
Splitnose rockfish	South of 40°10′ N lat	1,419	1,382
Starry flounder	Coastwide	188	188
Widow rockfish	Coastwide	10,243	9,398
Yellowtail rockfish	North of 40°10′ N lat	4,230	4,038
Other Flatfish complex	Coastwide	6,922	6,175

TABLE 1 TO PARAGRAPH (d)(1)(ii)(D)—SHOREBASED TRAWL ALLOCATIONS FOR 2025 AND 2026—Continued

IFQ species	Area	2025 Shorebased trawl allocation (mt)	2026 Shorebased trawl allocation (mt)
Shelf Rockfish complex	North of 40°10′ N lat	763	755
Shelf Rockfish complex	South of 40°10′ N lat	175	175
Slope Rockfish complex	North of 40°10′ N lat	858	836
Slope Rockfish complex	South of 40°10′ N lat	425	423

[a] Managed through an international process. These allocations will be updated when announced.

* * * * *

(g) *Retention and disposition requirements*—(1) *General.* Shorebased IFQ Program vessels may discard IFQ species/species groups, provided such discards are accounted for and deducted from QP in the vessel account. The discard mortality for those species with discard mortality rates must be accounted for and applied to QP in the vessel account. With the exception of vessels on a declared Pacific whiting IFQ trip and engaged in maximized retention, and vessels fishing under a valid EM Authorization in accordance with § 660.604, prohibited and protected species (except short-tailed albatross as directed by § 660.21(c)(1)(v)) must be discarded at sea. Pacific halibut must be discarded as soon as practicable and the discard mortality must be accounted for and deducted from IBQ pounds in the vessel account. Non-IFQ species and non-groundfish species may be discarded at sea, unless otherwise required by EM Program requirements at § 660.604. The sorting of catch, the weighing and discarding of any IBQ and IFQ species, and the retention of IFQ species must be monitored by the observer or EM system.

* * * * *

Tables 1 (North) and 2 (South) to Part 660, Subpart D—[Removed]

■ 22. Remove tables 1 (North) and 2 (South) to part 660, subpart D.

■ 23. Add tables 1a (North), 1b (North), 1a (South), and 1b (South) to part 660, subpart D to read as follows:

Table 1a (North) to Part 660, Subpart D—Limited Entry Trawl Rockfish Conservation Areas for North of 40°10′ N Lat.

Note 1 to table 1a (North): The Trawl RCA is an area closed to fishing with groundfish trawl gear, as defined at § 660.11. Trawl RCA boundaries apply in the EEZ only; see appropriate state regulations for state closures. Trawl RCA boundaries or Block Area Closures (BACs) may be revised or implemented via inseason action; therefore, users should refer back to this table throughout the year. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear Non-Trawl RCA, as described in tables 2a (North) and 2a (South) to part 660, subpart E.

Latitude	Boundary
North of 46°16′ N lat:	100 fm line–150 fm line.
46°16′ N lat–40°10′ N lat	BACs may be implemented and will be announced in the **Federal Register**.

Table 1b (North) to Part 660, Subpart D—Landing Allowances for Non-IFQ Species and Pacific Whiting North of 40°10′ N Lat.

Note 1 to table 1b (North): This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit. Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under ''Trip limits''). Trip limits are effective from the U.S.-Canada border to 40°10′ N lat. unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under ''Groundfish''. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms. See provisions at § 660.130 for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used.

Species	Trip limit
Big skate	Unlimited.
Cabezon (California)	50 lb/month.
Longnose skate	Unlimited.
Nearshore rockfish complex, Washington black rockfish and Oregon black/blue/deacon rockfish.	300 lb/month.
Oregon cabezon/kelp greenling complex	50 lb/month.
Other fish	Unlimited.
Pacific Spiny Dogfish	60,000 lb/month.
Pacific whiting—Midwater Trawl	Before the primary whiting season: CLOSED. During the primary whiting season: mid-water trawl permitted in the RCA. See § 660.131 for season and trip limit details. After the primary whiting season: CLOSED.
Pacific whiting—Large & Small Footrope Gear	Before the primary whiting season: 20,000 lb/trip. During the primary whiting season: 10,000 lb/trip. After the primary whiting season: 10,000 lb/trip.
Pacific whiting—Eureka Management Area	No more than 10,000 lb of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during the fishing trip, fished in the fishery management area shoreward of 100 fm contour (see § 660.131(d)).

Table 1a (South) to Part 660, Subpart D—Limited Entry Trawl Rockfish Conservation Areas for South of 40°10′ N Lat.

Note 1 to table 1a (South): The Trawl RCA is an area closed to fishing with groundfish trawl gear, as defined at § 660.11. Trawl RCA boundaries apply in the EEZ only; see appropriate state regulations for state closures. Trawl RCA boundaries or Block Area Closures (BACs) may be revised or implemented via inseason action; therefore, users should refer back to this table throughout the year. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear Non-Trawl RCA, as described in tables 2a (North) and 2a (South) to part 660, subpart E.

Latitude	Boundary
South of 40°10′ N lat.:	BACs may be implemented and will be announced in the **Federal Register**.

Table 1b (South) to Part 660, Subpart D—Landing Allowances for Non-IFQ Species and Pacific Whiting South of 40°10′ N Lat.

Note 1 to table 1b (South): This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit. Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under ''Trip limits''). Trip limits are effective from 40°10′ N lat. to the U.S.-Mexico border unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under ''Groundfish''. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms. See provisions at § 660.130 for gear restrictions and requirements by area. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used.

Species	Trip limit
Big skate	Unlimited.
Blackgill rockfish	Unlimited.
Cabezon	50 lb/month.
California scorpionfish	Unlimited.
Longnose skate	Unlimited.
Longspine thornyhead	24,000 lb/2 months.
(south of 34° 27′ N lat.)	
Nearshore rockfish complex, Washington black rockfish and Oregon black/blue/deacon rockfish.	300 lb/month.
Other fish	Unlimited.
Pacific Spiny Dogfish	60,000 lb/month.
Pacific whiting—Midwater Trawl	During the primary whiting season: allowed seaward of the Trawl RCA; prohibited within and shoreward of the Trawl RCA.
Pacific whiting—Large & Small Footrope Gear	Before the primary whiting season: 20,000 lb/trip. During the primary whiting season: 10,000 lb/trip. After the primary whiting season: 10,000 lb/trip.

■ 24. Amend § 660.230 by:
■ a. Revising paragraphs (a) and (b)(6)(i)(B);
■ b. Removing paragraph (d)(15); and
■ c. Redesignating paragraphs (d)(16) and (17) as paragraphs (d)(15) and (16).

The revisions read as follows:

§ 660.230 Fixed gear fishery—management measures.

(a) *General.* Most species taken in limited entry fixed gear (longline and pot/trap) fisheries will be managed with cumulative trip limits (see trip limits in tables 2b (North) and 2b (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see trip limits in tables 2b (North) and 2b (South) of this subpart and sablefish primary season details in § 660.231), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Cowcod, yelloweye, and California quillback rockfish retention is prohibited in all fisheries, and groundfish vessels operating south of Point Conception must adhere to GEA restrictions (see paragraph (d)(16) of this section and § 660.70). Regulations governing tier limits for the limited entry fixed gear sablefish primary season north of 36°N lat. are found in § 660.231. Vessels not participating in the sablefish primary season are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see paragraph (e) of this section. The trip limits in tables 2b (North) and 2b (South) of this subpart apply to vessels participating in the limited entry groundfish fixed gear fishery and may not be exceeded.

(b) * * *

(6) * * *

(i) * * *

(B) No more than four vertical mainlines attached to or fished from the vessel (*e.g.,* rod and reel) may be used in the water at one time.

* * * * *

■ 25. Amend § 660.231 by revising paragraphs (b)(3)(i) and (iv) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to fish in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that

vessel (*i.e.,* stacked permits). If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to three permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than three primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under § 660.232. In 2025, the following annual limits are in effect: Tier 1 at 246,824 lb (111,957 kg), Tier 2 at 112,193 lb (50,890 kg), and Tier 3 at 64,110 lb (29,080 kg). In 2026 and beyond, the following annual limits are in effect: Tier 1 at 234,312 lb (106,282 kg), Tier 2 at 106,506 lb (48,310 kg), and Tier 3 at 60,860 lb (27,606 kg).

* * * * *

(iv) Incidental Pacific halibut retention north of Pt. Chehalis, WA (46°53.30′ N lat.). Pacific halibut may be retained north of Pt Chehalis by vessels participating in the sablefish primary fishery with the requisite Pacific halibut commercial fishery permit. Pacific halibut incidentally caught in the primary sablefish fishery when using bottom longline gear may be retained from April 1 through the Pacific halibut commercial fishing closure date set by the International Pacific Halibut Commission. Vessels permitted as described in this section may possess and land up to 130 lb (59 kg) dressed weight of Pacific halibut for every 1,000 lb (454 kg) dressed weight of sablefish landed, plus two additional Pacific halibut. Pacific halibut retained as described in this section may not be possessed or landed south of Pt. Chehalis.

* * * * *

■ 26. Amend § 660.232 by revising paragraph (a)(3) to read as follows:

§ 660.232 Limited entry daily trip limit (DTL) fishery for sablefish.

(a) * * *

(3) Vessels registered for use with a limited entry fixed gear permit that does not have a sablefish endorsement may fish in the limited entry DTL fishery, consistent with regulations at § 660.230, for as long as that fishery is open during the fishing year, subject to routine management measures imposed under § 660.60(c), Subpart C. DTL limits for the limited entry fishery north and south of 36° N lat. are provided in tables 2b (North) and 2b (South) of this subpart.

* * * * *

Tables 2 (North) and 2 (South) to Part 660, Subpart E—[Removed]

■ 27. Remove tables 2 (North) and 2 (South) to part 660, subpart E.

■ 28. Add tables 2a (North), 2b (North), 2a (South), and 2b (South) to part 660, subpart E to read as follows:

Table 2a (North) to Part 660, Subpart E—Non-Trawl Rockfish Conservation Area Boundaries

Note 1 to table 2a (North): The Non-Trawl RCA is an area closed to fishing with particular non-trawl gear types, as defined at § 660.11. Non-Trawl RCA boundaries apply in the EEZ only; see appropriate state regulations for state closures. Non-Trawl RCA boundaries may be revised via inseason action; therefore, users should refer back to this table throughout the year.

Latitude	Boundary
North of 46°16′ N lat.:	Shoreward EEZ–100 fm line.
46°16′ N lat.–42°00′ N lat.	30 fm line–75 fm line.
42°00′ N lat.–40°10′ N lat.	Shoreward EEZ–75 fm line.

Table 2b (North) to Part 660, Subpart E—Trip Limits for Limited Entry Fixed Gear North of 40°10′ N Lat.

Note 1 to table 2b (North): Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under ''Trip limits''). Trip limits are effective from the U.S.-Canada border to 40°10′ N lat. unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under ''Groundfish''. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms.

Species	Trip Limit
Big skate	Unlimited.
Black rockfish (42°00′ N lat.–40°10′ N lat.)	CLOSED.
Cabezon (42°00′ N lat.–40°10′ N lat.)	CLOSED.
Cabezon/kelp greenling complex (Oregon)	Unlimited.
Canary rockfish	3,000 lb/2 months.
Flatfish (includes dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder).	20,000 lb/2 months.
Lingcod (north of 42°00′ N lat.)	11,000 lb/2 months.
Lingcod (42°00′ N lat.–40°10′ N lat.)	2,000 lb/2 months seaward of the Non-Trawl RCA; CLOSED inside the Non-Trawl RCA.
Longnose skate	Unlimited.
Longspine thornyheads	10,000 lb/2 months.
Nearshore rockfish complex, Oregon black/blue/deacon rockfish, & Washington black rockfish (north of 42°00′ N lat.).	5,000 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish See § 660.230(e) for additional trip limits for Washington black rockfish.
Nearshore rockfish complex (42°00′ N lat.–40°10′ N lat.)	CLOSED.
Other fish	Unlimited.
Other flatfish complex (north of 42°00′ N lat.)	20,000 lb/2 months.
Other flatfish complex (42°00′ N lat.–40°10′ N lat.)	20,000 lb/2 months seaward of the Non-Trawl RCA; CLOSED inside the Non-Trawl RCA.

Species	Trip Limit
Pacific cod	1,000 lb/2 months.
Pacific ocean perch	3,600 lb/2 months.
Pacific Spiny Dogfish	Periods 1–2: 200,000 lb/2 months Period 3: 150,000 lb/2 months Periods 4–6: 100,000 lb/2 months.
Pacific whiting	10,000 lb per trip.
Quillback rockfish	CLOSED.
(42°00′ N lat.–40°10′ N lat.)	
Sablefish	4,500 lb/week not to exceed 9,000 lb/2 months.
Shelf rockfish complex	1,600 lb/2 months.
Shortspine thornyhead	3,000 lb/2 months.
Slope rockfish complex & darkblotched rockfish	8,000 lb/2 months.
Widow rockfish	4,000 lb/2 months.
Yelloweye rockfish	CLOSED.
Yellowtail rockfish	6,000 lb/2 months.

Table 2a (South) to Part 660, Subpart E—Non-Trawl Rockfish Conservation Area Boundaries

Note 1 to table 2a (South): The Non-Trawl RCA is an area closed to fishing with particular non-trawl gear types, as defined at § 660.11. Non-Trawl RCA boundaries apply in the EEZ only; see appropriate state regulations for state closures. Non-Trawl RCA boundaries may be revised via inseason action; therefore, users should refer back to this table throughout the year.

Latitude	Boundary
40°10′ N lat.–37° 07′ N lat.	Shoreward EEZ–75 fm line.
37° 07′ N lat.–34° 27′ N lat.	50 fm line–75 fm line.
South of 34° 27′ N lat.	100 fm line–150 fm line (also applies around islands and banks).

Table 2b (South) to Part 660, Subpart E—Trip Limits for Limited Entry Fixed Gear South of 40°10′ N Lat.

Note 1 to table 2b (South): Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under ''Trip limits''). Trip limits are effective from 40°10′ N lat. to the U.S.-Mexico border unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under ''Groundfish''. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms.

Species	Trip limit
Big skate	Unlimited.
Bocaccio	8,000 lb/2 months.
Bronzespotted rockfish	CLOSED.
Cabezon (40°10′ N lat.–36° N lat.)	CLOSED.
Cabezon (south of 36° N lat.)	Unlimited.
California scorpionfish	3,500 lb/2 months.
Canary rockfish	3,500 lb/2 months.
Chilipepper rockfish (40°10′ N lat.–34° 27′ N lat.)	10,000 lb/2 months.
Chilipepper rockfish (south of 34° 27′ N lat.)	8,000 lb/2 months.
Cowcod	CLOSED.
Flatfish (includes dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder).	20,000 lb/2 months.
Lingcod (40°10′ N lat.–37° 07′ N lat.)	1,600 lb/2 months seaward of the Non-Trawl RCA; 0 lb/2 months inside of the Non-Trawl RCA.
Lingcod (south of 37° 07′ N lat.)	1,600 lb/2 months.
Longnose skate	Unlimited.
Longspine thornyhead (south of 34° 27′ N lat.)	10,000 lb/2 months.
Nearshore rockfish complexes:	
Shallow nearshore rockfish complex (40°10′ N lat.–36° N lat.)	CLOSED.
Shallow nearshore rockfish complex (south of 36° N lat.)	2,000 lb/2 months.
Deeper nearshore rockfish complex (40°10′ N lat.–36° N lat.)	CLOSED.
Deeper nearshore rockfish complex (south of 36° N lat.)	2,000 lb/2 months, of which no more than 75 lb may be copper rockfish.
Other fish	Unlimited.
Other flatfish complex (40°10′ N lat.–37° 07′ N lat.)	20,000 lb/2 months seaward of the Non-Trawl RCA; CLOSED inside of the Non-Trawl RCA.
Other flatfish complex (south of 37° 07′ N lat.)	20,000 lb/2 months.
Pacific cod	1,000 lb/2 months.

Species	Trip limit
Pacific Spiny Dogfish	Periods 1–2: 200,000 lb/2 months. Period 3: 150,000 lb/2 months. Periods 4–6: 100,000 lb/2 months.
Pacific whiting	10,000 lb per trip.
Quillback rockfish	CLOSED.
Sablefish (40°10′ N lat.–36° N lat.)	4,500 lb/week not to exceed 9,000 lb/2 months.
Sablefish (south of 36° N lat.)	2,500 lb/2 months.
Shelf rockfish complex (40°10′ N lat.–37° 07′ N lat.); excludes bronzespotted rockfish..	6,000 lb per 2 months, of which no more than 500 lb may be vermilion/sunset rockfish.
Shelf rockfish complex (37° 07′ N lat.–34° 27′ N lat.); excludes bronzespotted rockfish..	8,000 lb per 2 months, of which no more than 500 lb may be vermilion/sunset rockfish.
Shelf rockfish complex (south of 34° 27′ N lat.); excludes bronzespotted rockfish.	5,000 lb per 2 months, of which no more than 3,000 lb may be vermilion/sunset rockfish.
Shortspine thornyhead (40° 10′ N lat.–34° 27′ N Lat.)	3,000 lb/2 months.
Slope rockfish complex & darkblotched rockfish	40,000 lb/2 months, of which no more than 6,000 lb may be blackgill rockfish.
Splitnose rockfish	40,000 lb/2 months.
Widow rockfish (40°10′ N lat.–34° 27′ N lat.)	10,000 lb/2 months.
Widow rockfish (south of 34° 27′ N lat.)	8,000 lb/2 months.
Yelloweye rockfish	CLOSED.

■ 29. Amend § 660.312 by adding paragraph (a)(6) to read as follows:

§ 660.312 Open access fishery—prohibitions.

* * * * *

(a) * * *

(6) Take and retain, possess, or land groundfish in the directed open access fishery without having a valid directed open access permit for the vessel.

* * * * *

■ 30. Amend § 660.330 by:

■ a. Revising paragraphs (a), (b)(3) introductory text, and (b)(3)(i)(B) and (C);

■ b. Removing paragraph (d)(17); and

■ c. Redesignating paragraphs (d)(18) and (19) as paragraphs (d)(17) and (18).

The revisions read as follows:

§ 660.330 Open access fishery—management measures.

(a) *General.* Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see trip limits in tables 3b (North) and 3b (South) of this subpart), size limits (see § 660.60(h)(5)), seasons (see seasons in tables 3a (North) and 3a (South) of this subpart), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (d) of this section and §§ 660.70 through 660.79). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed, any trip limit, frequency limit, and/or size limit for the open access fishery. Retention of cowcod, yelloweye rockfish, and quillback rockfish off California is prohibited in all fisheries, and groundfish vessels operating south of Point Conception must adhere to GEA restrictions (see paragraph (d)(18) of this section and § 660.70). For information on the open access daily/weekly trip limit fishery for sablefish, see § 660.332 and the trip limits in tables 3b (North) and 3b (South) of this subpart. Open access vessels are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies (see paragraph (e) of this section).

(b) * * *

(3) *Gear for use inside the Non-Trawl RCA.* Inside the Non-Trawl RCA, only legal non-bottom contact hook-and-line gear configurations may be used for target fishing for groundfish by vessels that participate in the directed open access sector as defined at § 660.11. Vessels must be registered to a valid directed open access permit as defined at § 660.25(i). On a fishing trip where any fishing will occur inside the Non-Trawl RCA, only one type of legal non-bottom contact gear may be carried on board, and no other fishing gear of any type may be carried on board or stowed during that trip. The vessel may fish inside and outside the Non-Trawl RCA on the same fishing trip, provided a valid declaration report as required at § 660.13(d) has been filed with NMFS OLE. Legal non-bottom contact hook-and-line gear means stationary vertical jig gear not anchored to the bottom, and groundfish troll gear, subject to the specifications in paragraphs (b)(3)(i) and (ii) of this section.

(i) * * *

(B) No more than four vertical mainlines attached to or fished from the vessel (*e.g.,* rod & reel) may be used in the water at one time.

(C) No more than 100 hooks may be in the water at one time, with no more than 25 extra hooks on board the vessel.

* * * * *

■ 31. Amend § 660.332 by revising paragraph (b)(1) to read as follows:

§ 660.332 Open access daily trip limit (DTL) fishery for sablefish.

* * * * *

(b) * * *

(1) Daily and/or weekly trip limits for the open access fishery north and south of 36° N lat. are provided in tables 3b (North) and 3b (South) of this subpart.

* * * * *

32. Amend § 660.333 by revising paragraph (a), redesignating paragraph (e) as paragraph (g), and adding new paragraph (e) and paragraphs (f), (h), and (i).

The revision and additions read as follows:

§ 660.333 Open access non-groundfish trawl fishery—management measures.

(a) *General.* This section describes management measures for vessels that take groundfish incidentally with non-groundfish trawl gear, including vessels engaged in fishing for pink shrimp, ridgeback prawns, California halibut, or sea cucumbers.

* * * * *

(e) *Non-Trawl Rockfish Conservation Area restrictions for the ridgeback prawn, California halibut, and sea cucumber fisheries.* (1) 40° 10′ N lat.–38.00° N lat.: 100 fm to 150 fm during Periods 1 and 6; 100 fm to 150 fm during Periods 2, 3, 4, and 5.

(2) 38.00° N lat.–34° 27 N lat.: 100 fm to 150 fm

(3) South of 34° 27 N lat.: 100 fm to 150 fm

(f) *Trip Limits for the ridgeback prawn, California halibut, and sea cucumber fisheries. Groundfish.* 300 lb (136 kg) per trip. Species-specific limits described in table 3b South also apply and are counted toward the 300 lb (136 kg) groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of Pacific spiny dogfish landed may exceed the amount of target species landed. Pacific spiny dogfish are limited by the 300 lb (136 kg)/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish ''per trip'' limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50′ N lat. are allowed to:

(1) Land up to 100 lb (45 kg) per day of groundfish without the ratio requirement, provided that at least one California halibut is landed; and

(2) Land up to 3,000 lb (1,361 kg) per month of flatfish, no more than 300 lb (136 kg) of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in table 3b South).

* * * * *

(h) *Management measures for the pink shrimp fishery north of 40° 10′ N lat.* Effective April 1–October 31: Groundfish: 500 lb (227 kg)/day, multiplied by the number of days of the trip, not to exceed 1,500 lb (680 kg)/trip. The following sublimits also apply and are counted toward the overall 500 lb (227 kg)/day and 1,500 lb (680 kg)/trip groundfish limits: lingcod 300 lb (136 kg)/month (minimum 24-inch (0.61 cm) size limit); sablefish 2,000 lb (907 kg)/month; canary, thornyheads, and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb (227 kg)/day and 1,500 lb (680 kg)/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.

(i) *Management measures for the pink shrimp fishery south of 40° 10′ N lat.* Effective April 1–October 31: Groundfish: 500 lb (227 kg)/day, multiplied by the number of days of the trip, not to exceed 1,500 lb (680 kg)/trip. The following sublimits also apply and are counted toward the overall 500 lb (227 kg)/day and 1,500 lb (680 kg)/trip groundfish limits: lingcod 300 lb (136 kg)/month (minimum 24-inch (0.61 cm) size limit); sablefish 2,000 lb (907 kg)/month; canary rockfish, thornyheads, and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb (227 kg)/day and 1,500 lb (680 kg)/trip groundfish limits. Landings of all groundfish species count toward the per day, per trip or other species-specific sublimits described here and the species-specific limits described in the table above do not apply. The amount of groundfish landed may not exceed the amount of pink shrimp landed.

■ 33. Add § 660.334 to read as follows:

§ 660.334 Open access non-groundfish salmon troll fishery—management measures.

(a) *General.* This section includes management measures applicable to vessels that incidentally take and retain groundfish while participating in the West Coast salmon fishery under the regulations at part 660, subpart H (herein referred to as ''salmon troll fishery''). All salmon troll vessels that take and retain groundfish species are subject to the open access trip limits, seasons, size limits, and Non-Trawl RCA restrictions listed in tables 3a (North), 3b (North), 3a (South), and 3b (South) to this subpart, unless otherwise stated in this section.

(b) *Trip limits.* (1) In the area north of 40° 10′ N lat., salmon trollers may retain and land up to 500 lb (227 kg) of yellowtail rockfish per month as long as salmon is on board, both within and outside of the Non-Trawl RCA. Salmon trollers may retain and land up to 1 lingcod per 2 Chinook per trip, plus 1 lingcod per trip, up to a trip limit of 10 lingcod, on a trip where any fishing occurs within the Non-Trawl RCA. The lingcod limit only applies during times when lingcod retention is allowed and is not ''CLOSED''. These limits are within the limits described in table 3b (North), and not in addition to those limits.

(2) In the area south of 40° 10′ N lat., salmon trollers may retain and land up to 1 lb (0.45 kg) of yellowtail rockfish for every 2 lb (0.90 kg) of Chinook salmon landed, with a cumulative limit of 200 lb (91 kg)/month, both within and outside of the Non-Trawl RCA. This limit is within the trip limits for shelf rockfish, and not in addition to those limits. All groundfish species are subject to the open access limits, seasons, size limits, and RCA restrictions listed in tables 3a (South) and 3b (South) to this subpart, unless otherwise stated here.

Tables 3 (North) and 3 (South) to Part 660, Subpart F—[Removed]

■ 34. Remove tables 3 (North) and 3 (South) to part 660, subpart F.

■ 35. Add tables 3a (North), 3b (North), 3a (South), and 3b (South) to part 660, subpart F to read as follows:

Table 3a (North) to Part 660, Subpart F—Non-Trawl Rockfish Conservation Area Boundaries

Note 1 to table 3a (North): The Non-Trawl RCA is an area closed to fishing with particular non-trawl gear types, as defined at § 660.11. Non-Trawl RCA boundaries apply in the EEZ only; see appropriate state regulations for state closures. Non-Trawl RCA boundaries may be revised via inseason action; therefore, users should refer back to this table throughout the year.

Latitude	Boundary
North of 46°16′ N lat..	Shoreward EEZ–100 fm line.
46°16′ N lat.–42°00′ N lat..	30 fm line–75 fm line.
42°00′ N lat.–40°10′ N lat.	Shoreward EEZ–75 fm line.

Table 3b (North) to Part 660, Subpart F—Trip Limits for Open Access North of 40°10′ N Lat.

Note 1 to table 3b (North): Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under ''Trip limits''). Trip limits are effective from the U.S.-Canada border to 40°10′ N lat. unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under ''Groundfish''. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms.

Species	Trip limit
Big skate	Unlimited.
Black rockfish (42°00′ N Lat.–40°10′ N Lat.)	CLOSED.
Cabezon (42°00′ N Lat.–40°10′ N Lat.)	CLOSED.
Cabezon/kelp greenling complex (Oregon)	Unlimited.

Species	Trip limit
Canary rockfish	1,000 lb/2 months.
Flatfish (includes dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder).	10,000 lb/2 months.
Lingcod (north of 42°00′ N Lat.)	9,000 lb/2 months.
Lingcod (42°00′ N Lat.–40°10′ N Lat.)	2,000 lb/2 months seaward of the Non-Trawl RCA; CLOSED inside the Non-Trawl RCA.
Longnose skate	Unlimited.
Longspine thornyheads	100 lb/2 months.
Nearshore rockfish complex, Oregon black/blue/deacon rockfish, & Washington black rockfish (north of 42°00′ N Lat.).	5,000 lb/2 months no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish. See § 660.330(e) for additional trip limits for Washington black rockfish.
Nearshore rockfish complex (42°00′ N Lat.–40°10′ N Lat.)	CLOSED.
Other fish	Unlimited.
Other flatfish complex (north of 42°00′ N Lat.)	10,000 lb/2 months.
Other flatfish complex (42°00′ N Lat.–40°10′ N Lat.)	10,000 lb/2 months seaward of the Non-Trawl RCA; 0 lb/2 months inside the Non-Trawl RCA.
Pacific cod	1,000 lb/2 months.
Pacific ocean perch	200 lb/2 months.
Pacific Spiny Dogfish	Periods 1–2: 200,000 lb/2 months. Period 3: 150,000 lb/2 months. Periods 4–6: 100,000 lb/2 months.
Pacific whiting	600 lb/2 months.
Quillback rockfish (42°00′ N lat.–40°10′ N lat.)	CLOSED.
Sablefish	3,250 lb/week not to exceed 6,500 lb/2 months.
Shelf rockfish complex (north of 42°00′ N Lat.)	1,600 lb/2 months.
Shelf rockfish complex (42°00′ N lat.–40°10′ N lat.)	1,200 lb per 2 months.
Shortspine thornyhead	100 lb/2 months.
Slope rockfish complex & darkblotched rockfish	4,000 lb/2 months.
Widow rockfish	2,000 lb/2 months.
Yelloweye rockfish	CLOSED.
Yellowtail rockfish	3,000 lb/2 months.
Salmon Troll	See § 660.334(b)(1).
Pink Shrimp non-groundfish trawl	See § 660.333(g) and (h).

Table 3a (South) to Part 660, Subpart F—Non-Trawl Rockfish Conservation Area Boundaries

Note 1 to table 3a (South): The Non-Trawl RCA is an area closed to fishing with particular non-trawl gear types, as defined at § 660.11. Non-Trawl RCA boundaries apply in the EEZ only; see appropriate state regulations for state closures. Non-Trawl RCA boundaries may be revised via inseason action; therefore, users should refer back to this table throughout the year.

Latitude	Boundary
40°10′ N lat.–37°07′ N lat.	Shoreward EEZ–75 fm line.
37°07′ N lat.–34°27′ N lat.	50 fm line–75 fm line.
South of 34°27′ N lat.	100 fm line–150 fm line (also applies around islands and banks).

Table 3b (South) to Part 660, Subpart F—Trip Limits for Open Access South of 40°10′ N Lat.

Note 1 to table 3b (South): Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under ''Trip limits''). Trip limits are effective from 40°10′ N lat. to the U.S.-Mexico border unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under ''Groundfish''. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms.

Species	Trip limit
Big skate	Unlimited.
Bocaccio	6,000 lb/2 months.
Bronzespotted rockfish	CLOSED.
Cabezon (40°10′ N lat.–36° N lat.)	CLOSED.
Cabezon (south of 36° N lat.)	Unlimited.
California scorpionfish	3,500 lb/2 months.
Canary rockfish	1,500 lb/2 months.
Chilipepper rockfish (40°10′ N lat.–34° 27′ N lat.)	6,000 lb/2 months.
Chilipepper rockfish (south of 34° 27′ N lat.)	4,000 lb/2 months.
Cowcod	CLOSED.
Flatfish (includes Dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder).	10,000 lb/2 months.
Lingcod (40°10′ N lat.–37° 07′ N lat.)	1,400 lb/2 months seaward of the Non-Trawl RCA; CLOSED inside of the Non-Trawl RCA.
Lingcod (south of 37° 07′ N lat.)	1,400 lb/2 months.
Longnose skate	Unlimited.
Longspine thornyhead (40° 10′ to 34° 27′ N lat.)	100 lb/2 months.
Nearshore rockfish complexes:	

Species	Trip limit
Shallow nearshore rockfish (40°10′ N lat.–36° N lat.)	CLOSED.
Shallow nearshore rockfish (south of 36° N lat.)	2,000 lb/2 months.
Deeper nearshore rockfish (40°10′ N lat.–36° N lat.)	CLOSED.
Deeper nearshore rockfish (south of 36° N lat.)	2,000 lb/2 months, of which no more than 75 lb may be copper rockfish.
Other fish (defined at § 660.11)	Unlimited.
Other flatfish complex (defined at § 660.11)	40°10′ N lat.–37° 07′ N lat.: 10,000 lb/2 months seaward of the Non-Trawl RCA; CLOSED inside of the Non-Trawl RCA. South of 37° 07′ N lat.: 10,000 lb/2 months.
Pacific cod	1,000 lb/2 months.
Pacific Spiny Dogfish	Periods 1–2: 200,000 lb/2 months. Period 3: 150,000 lb/2 months. Periods 4–6: 100,000 lb/2 months.
Pacific whiting	600 lb/2 months.
Quillback rockfish	CLOSED.
Sablefish (40°10′ N lat.–36° N lat.)	3,000 lb/week not to exceed 9,000 lb/2 months.
Sablefish (south of 36° N lat.)	2,000 lb/week not to exceed 6,000 lb/2 months.
Shelf rockfish complex (40°10′ N lat.–37° 07′ N lat.); excludes bronzespotted rockfish.	3,000 lb per 2 months, of which no more than 300 lb may be vermilion/sunset rockfish.
Shelf rockfish complex (37° 07′ N lat.–34° 27′ N lat.); excludes bronzespotted rockfish.	4,000 lb per 2 months, of which no more than 300 lb may be vermilion/sunset rockfish.
Shelf rockfish complex (south of 34° 27′ N lat.); excludes bronzespotted rockfish.	3,000 lb per 2 months, of which no more than 900 lb may be vermilion/sunset rockfish.
Shortspine thornyhead (40° 10′ N lat.–34° 27′ N lat.)	100 lb/2 months.
Shortspine thornyhead and longspine thornyhead (south of 34° 27′ N lat.).	100 lb/day, no more than 1,000 lb/2 months for all periods.
Slope rockfish complex & darkblotched rockfish	10,000 lb/2 months, of which no more than 2,500 lb may be blackgill rockfish.
Splitnose rockfish	400 lb/2 months.
Widow rockfish (40°10′ N lat.–34° 27′ N lat.)	6,000 lb/2 months.
Widow rockfish (south of 34° 27′ N lat.)	4,000 lb/2 months.
Yelloweye rockfish	CLOSED.
Salmon Troll	See § 660.334(b)(2).
Ridgeback Prawn, California halibut, and sea cucumber	See § 660.333(e) and (f).
Pink Shrimp	See § 660.333(g) and (i).

■ 36. Amend § 660.351 by revising the definition of ''Boat limit'' and adding in alphabetical order a definition for ''Descending device'' to read as follows:

§ 660.351 Recreational fishery—definitions.

* * * * *

Boat limit means the number of fish available for a vessel or boat.

Descending device means an instrument capable of releasing a fish at the depth from which the fish was caught.

* * * * *

■ 37. Amend § 660.352 by adding paragraph (c) to read as follows:

§ 660.352 Recreational fishery—prohibitions.

* * * * *

(c) Fail to have at least one functional descending device on board ready for immediate use during a groundfish recreational fishing trip.

■ 38. Amend § 660.360 by:

■ a. Adding paragraph (b)(1) and a reserved paragraph (b)(2);

■ b. Revising paragraph (c)(1) introductory text, table 1 to paragraph (c)(1)(i)(D), paragraphs (c)(1)(ii) through (iv) and (c)(2)(iii)(A) through (C);

■ c. Redesignating paragraphs (c)(2)(iii)(D) and (E) as paragraphs (c)(2)(iii)(E) and (F);

■ d. Adding new paragraph (c)(2)(iii)(D);

■ e. Revising paragraph (c)(3)(i)(A);

■ f. Removing paragraph (c)(3)(ii)(C);

■ g. Redesignating paragraph (c)(3)(ii)(D) as paragraph (c)(3)(ii)(C) and revising it;

■ h. Revising paragraph (c)(3)(iii)(D);

■ i. Removing paragraph (c)(3)(v)(C); and

■ j. Redesignating paragraph (c)(3)(v)(D) as paragraph (c)(3)(v)(C) and revising it.

The revisions and additions read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

(b) * * *

(1) All vessels participating in the groundfish recreational fishery seaward of California, Oregon, or Washington must carry on board one functional descending device as defined at § 660.351. The descending device must be available for immediate use and be available to present to an enforcement officer upon request.

(2) [Reserved]

(c) * * *

(1) *Washington.* For each person engaged in recreational fishing off the coast of Washington, the groundfish bag limit is nine groundfish per day, including rockfish, cabezon, and lingcod. Within the groundfish bag limit, there are sub-limits for rockfish, lingcod, and cabezon outlined in paragraph (c)(1)(i)(D) of this section. In addition to the groundfish bag limit of nine, there will be a flatfish limit of five fish, not to be counted towards the groundfish bag limit but in addition to it. The recreational groundfish fishery will open the second Saturday in March through the third Saturday in October for all species. In the Pacific halibut fisheries, retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the **Federal Register**. The following seasons, closed areas, sub-limits, and size limits apply:

(i) * * *

(D) * * *

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Table 1 to Paragraph (C)(1)(i)(D) -- Washington Recreational Fishing Season Structure

Marine Area	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
3 & 4 (N. Coast)	Closed			Open [a]		See WA state regulations for allowable depths [a b c]		Open			Closed	
2 (S. Coast)	Closed			Open [d e]							Closed	
1 (Col. River)	Closed			Open [f g]							Closed	

[a] Retention of copper, quillback, and vermilion rockfishes prohibited May 1 through July 31.

[b] Retention of lingcod, Pacific cod, sablefish, bocaccio, silvergray rockfish, canary rockfish, widow rockfish, and yellowtail rockfish allowed >20 fm (37 m) on days when Pacific halibut is open June 1 through July 31.

[c] Retention of yellowtail and widow rockfishes is allowed >20 fm (37 m) in July.

[d] From May 1 through May 31, lingcod retention prohibited >30 fm (55 m), except on days that the primary Pacific halibut season is open.

[e] When lingcod is open, retention is prohibited seaward of a line drawn from Queets River (47° 31.70' N. lat. 124° 45.00' W. long.) to Leadbetter Point (46° 38.17' N. lat. 124° 30.00' W. long.), except on days open to the primary Pacific halibut fishery and June 1 - 15 and September 1 - 30.

[f] Retention of sablefish, Pacific cod, flatfish (other than halibut), yellowtail, widow, canary, redstripe, greenstriped, silvergray, chilipepper, bocaccio, and blue/deacon rockfishes allowed during the all-depth Pacific halibut fishery. Lingcod retention is only allowed with halibut on board north of the WA-OR border.

[g] Retention of lingcod is prohibited seaward of a line drawn from Leadbetter Point (46° 38.17' N. lat., 124° 21.00' W. long.) to 46° 33.00' N. lat., 124° 21.00' W. long. year-round, except lingcod retention is allowed from June 1 - June 15 and Sept 1 - Sept 30.

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(ii) *Rockfish.* In areas of the EEZ seaward of Washington (Washington Marine Areas 1–4) that are open to recreational groundfish fishing, there is a seven rockfish per day bag limit, including a sub-bag limit of five canary rockfish. Taking and retaining yelloweye rockfish is prohibited in all Marine Areas.

(iii) *Cabezon.* In areas of the EEZ seaward of Washington (Washington Marine Areas 1–4) that are open to recreational groundfish fishing, there is a one cabezon per day bag limit.

(iv) *Lingcod.* In areas of the EEZ seaward of Washington (Washington Marine Areas 1–4) that are open to recreational groundfish fishing and when the recreational season for lingcod is open, there is a bag limit of two lingcod per day. The recreational fishing seasons for lingcod is open from the second Saturday in March through the third Saturday in October.

(2) * * *

(iii) * * *

(A) *Marine fish.* The bag limit is 10 marine fish per day, which includes rockfish, kelp greenling, cabezon, and other groundfish species; except the daily bag limit in the long-leader gear fishery is 12 fish per day with a sub-bag limit of 5 fish per day for canary rockfish. The bag limit of marine fish excludes Pacific halibut, salmonids, tuna, perch species, sturgeon, sanddabs, flatfish, lingcod, striped bass, hybrid bass, offshore pelagic species, and baitfish (*e.g.,* herring, smelt, anchovies, and sardines). The minimum size for cabezon retained in the Oregon recreational fishery is 16 in (41 cm) total length.

(B) *Lingcod.* There is a three fish limit per day. The minimum size for lingcod retained in the Oregon recreational fishery is 22 in (56 cm) total length. For vessels using long-leader gear (as defined in § 660.351) and fishing inside the Recreational RCA, possession of lingcod is prohibited.

(C) *Flatfish.* There is a 25 fish limit per day for all flatfish, excluding Pacific halibut, but including all soles, flounders, and Pacific sanddabs.

(D) *Sablefish.* There is a 10 fish limit per day.

* * * * *

(3) * * *

(i) * * *

(A) *Recreational rockfish conservation areas.* The recreational RCAs are areas

that are closed to recreational fishing for certain groundfish. Fishing for the California rockfish, cabezon, greenling complex (RCG Complex), as defined in paragraph (c)(3)(ii) of this section, and lingcod with recreational gear, is prohibited within the Recreational RCA. It is unlawful to take and retain, possess, or land the RCG Complex and lingcod taken with recreational gear within the Recreational RCA, unless otherwise authorized in this section. A vessel fishing in the Recreational RCA may not be in possession of any species prohibited by the restrictions that apply within the Recreational RCA. For example, if a vessel fishes in the recreational salmon fishery within the Recreational RCA, the vessel cannot be in possession of the RCG Complex and lingcod while in the Recreational RCA. The vessel may, however, on the same trip fish for and retain rockfish shoreward of the Recreational RCA on the return trip to port. If the season is closed for a species or species group, fishing for that species or species group is prohibited both within the Recreational RCA and outside of the Recreational RCA, unless otherwise authorized in this section. In times and areas where a Recreational RCA is closed shoreward of a Recreational RCA line (*i.e.,* when an ''off-shore only'' fishery is active in that management area) vessels may stop, anchor in, or transit through waters shoreward of the Recreational RCA line so long as they do not have any hook-and-line fishing gear in the water. Coordinates approximating boundary lines at the 30 fm (55 m) through 100 fm (183 m) depth contours can be found at §§ 660.71 through 660.73. The recreational fishing season structure and RCA depth boundaries seaward of California by management area and month are as follows:

* * * * *

(ii) * * *

(C) *Dressing/fileting.* Each RCG Complex filet must have the entire skin attached.

(iii) * * *

(D) *Dressing/fileting.* Lingcod filets may be no smaller than 14 in (36 cm) in length. Each lingcod filet must have the entire skin attached.

* * * * *

(v) * * *

(C) *Dressing/fileting.* Each California scorpionfish filet must have the entire skin attached.

* * * * *

■ 39. Amend § 660.604 by revising paragraph (p)(4)(i) introductory text to read as follows:

§ 660.604 Vessel and first receiver responsibilities.

* * * * *

(p) * * *

(4) * * *

(i) The vessel must retain IFQ species (as defined at § 660.140(c)), except for Arrowtooth flounder, English sole, Dover sole, deep sea sole, Pacific sanddab, Pacific whiting, lingcod, sablefish, starry flounder, and rex sole; must retain salmon and eulachon; and must retain the following non-IFQ species: Greenland turbot, slender sole, hybrid sole, c-o sole, bigmouth sole, fantail sole, hornyhead turbot, spotted turbot, northern rockfish, black rockfish, blue rockfish, shortbelly rockfish, olive rockfish, Puget Sound rockfish, semaphore rockfish, walleye pollock, slender codling, and Pacific tom cod, with exceptions listed in paragraphs (p)(4)(i)(A) and (B) of this section.

* * * * *

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